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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, SECOND SESSION

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# House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. JOLLY).

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*May 7, 2014.*

I hereby appoint the Honorable DAVID JOLLY to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
*Speaker of the House of Representatives.*

## MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2014, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes, but in no event shall debate continue beyond 11:50 a.m.

## MOTHER'S DAY CENTENNIAL ANNIVERSARY

The SPEAKER pro tempore. The Chair recognizes the gentleman from West Virginia (Mr. MCKINLEY) for 5 minutes.

Mr. MCKINLEY. Mr. Speaker, I rise today to honor mothers across America.

Mothers play an incredible role in our lives. We have all seen the sacrifices they make to raise their children and the care and devotion they dedicate to them. We know their commitment.

Mothers have been our greatest advocates. When we were young, they cared for us when we were sick, supported us in our pursuits, lifted us up when we fell down, and read to us at night. They held our hands when we needed them.

Mothers work 8 to 10 hours a day in the workforce, come home and do the cooking, the laundry, and help with the homework, and then get up the next day and do it all over again.

So when was the last time we actually took a moment to say thank you to our mothers and grandmothers? Do enough people take time to stop and say, Thanks, Mom?

There is one person who did so in a very special way. She was a young lady born in 1864 in a small coal mining town in West Virginia. Her mother had worked during the Civil War to provide nursing care and promote better sanitation, helping save thousands of lives on both sides of the conflict. When she passed away in 1902, this young lady, Anna Jarvis, wanted to celebrate her mother's life and came up with the idea of a national honor for mothers: Mother's Day.

Consequently, in 1908, Anna Jarvis organized the very first official Mother's Day celebration, which took place in the Andrews Methodist Episcopal Church in Grafton, West Virginia. However, Anna wanted more people to honor mothers.

She worked with a department store owner in Philadelphia, and soon thousands of people started attending Mother's Day events at retail stores all across America. Following these successes, Anna resolved to see her holiday added to the national calendar. She argued that the national holidays were biased towards male achievements and that the accomplishments of mothers deserve a day of appreciation.

Anna Jarvis started a letter-writing campaign to newspapers and politicians urging them to adopt a special day honoring motherhood. By 1912, many States, towns, and churches had adopted Mother's Day as an annual event.

Her persistence paid off. In 1914, President Woodrow Wilson signed a measure officially recognizing the second Sunday in May as Mother's Day.

Anna Jarvis, who never married or had children of her own, dedicated her life to establishing a day to honor her mother and all mothers across America.

This Sunday, we will celebrate the 100th anniversary of Mother's Day. This holiday is just a small way to show our gratitude to our mothers and grandmothers. This Sunday, we can stop for a moment to simply say thank you. Because when our mothers are gone, that loss reaches into all of our hearts and touches each of us, for no longer will we hear the sound of their voice, the touch of their hand, or that warm embrace. It causes a huge loss in all of our lives.

We should pause on this one day to say thank you to our mothers, who love us in spite of ourselves.

Mr. Speaker, I ask that this Mother's Day we honor the dedication and vision of Anna Jarvis, as well as all of our mothers.

## HONORING THE LIFE OF FORMER CONGRESSMAN JIM OBERSTAR

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, today is National Bike to School Day. How fitting is it that Congressman Jim Oberstar's family's request for the remembrance of our beloved Jim is a contribution to the National Safe Routes to School program?

Tens of thousands of children can get to school today more safely and millions will be more safe in the future because of his tireless efforts over two decades on behalf of that program.

Jim Oberstar, I must confess, was like an uncle to me. Together, we spent



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hundreds and hundreds of hours in consultation, planning, touring, and legislating. It was the most effective mentoring possible.

There are those who have been known as ''a man of the House,'' and Jim Oberstar certainly was ''a man of the people's House.'' But even more, he was a man of the T&I Committee, the Public Works Committee.

He rose through the staff ranks to become staff director. Then, succeeding his Congressman, Congressman Blatnik, he became a Member of Congress, and ultimately became its chair. This is something no one else has done, serving as staff director of a committee and then ultimately presiding over it.

As staff, committee member, or chair, or as a member of all the subcommittees, whether in the majority or minority, Jim Oberstar had an outsized influence on the Transportation and Infrastructure Committee for decades. It is safe to say that over the last 50 years no one had more influence than Jim.

For almost 20 years he was the top Democrat, but most feel he was the top member, period. He was totally seeped in policy, the history, and the mechanics of transportation. But it was not just transportation. It was aviation, marine, the waterways, and waterworks of America as well. They were all his areas of expertise.

Jim Oberstar was a partisan—and not necessarily a political partisan, but he was an infrastructure partisan. A true expert. That is why his partnership with Congressman Bud Shuster, although they were of different parties, was so effective. Bud was Jim's partner for years on the committee, even before either of them assumed their respective top leadership positions.

Infrastructure came first, partisanship second.

One of my most vivid memories was how our Transportation and Infrastructure Committee, under the leadership of Jim Oberstar and Bud Shuster, beat Speaker Gingrich and President Clinton when it mattered on our highway bill in 1997.

Jim was a man of remarkable memory and learning. He spoke a half-dozen languages. He never stopped fighting for what he believed in and what he knew for his district, his State, or for the American people.

He was a man of faith that never wavered. But as much as he loved the job of being Congressman, his people, his bicycle, his first love was his family. I don't think he ever recovered from the loss of his first wife, Jo, but then he found Jean. They were married 20 years. They were a remarkable team.

Jean is a knowledgeable and experienced transportation professional in her own right. She knew what Jim's speeches were about. In fact, she could encourage him occasionally, in good humor, to shorten them just a little bit.

Over the years, dozens of members of my staff felt in a sense that they worked for Jim Oberstar as well, because of his commitment, his skill, and his innate decency. I am hearing of their sense of loss from people around the country.

We all knew that Jim Oberstar had a lot to say. What he said was worth listening to. America is a better place not just because of what he said, but what he did in a remarkable career spanning almost 50 years.

Few people had more lasting impact on this institution of Congress and on America than Jim Oberstar. We are all richer for his life of outstanding service.

## TEACHER APPRECIATION WEEK

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. THOMPSON) for 5 minutes.

Mr. THOMPSON of Pennsylvania. Mr. Speaker, I rise today in deep appreciation for a group of individuals who hold our future in their hands: our Nation's teachers.

This week is Teacher Appreciation Week, during which we thank the countless men and women who strive every day to ensure that a child's potential can become reality.

America's ability to outcompete rival nations is contingent upon the next generation of minds possessing the education but also the confidence to think outside the box. Our future competitiveness is contingent upon our next generation of children having the skills but also creativity, vision, and know-how to build the future.

Each child's potential is realized through the engagement of families and communities, but also teachers rising to the occasion, which they have done for generations.

So let us take a moment to recognize the compassionate individuals who dedicate their lives and professions to the cultivation of minds and the betterment of our Nation.

During this Teacher Appreciation Week let us not forget those teachers who have helped shape our own lives. They deserve our praise.

## END HUNGER NOW

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MCGOVERN) for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, I have come to this floor once a week during the 113th Congress to talk about hunger—specifically, how we can end hunger now if we simply muster the political will to do so.

Technically identified as food insecure by the Department of Agriculture, there are nearly 50 million hungry people who live in the United States, the richest country in the history of the world. These people don't earn enough to be able to put food on their table. Simply, they don't know where their next meal will come from.

Now, let's be clear. This has not been a particularly kind Congress to those who struggle with hunger. We are seeing nearly $20 billion cut from our Nation's preeminent antihunger program, known as SNAP.

SNAP is a lifeline for the 46 million Americans who rely on it to have something to eat each day. Yet this Congress decided that Americans who live at or below the poverty line can simply absorb massive cuts to SNAP.

Sadly, Republicans and some Democrats joined together to cut a benefit that was already meager and didn't last through the month even before these cuts took effect.

These cuts are bad and hurtful, but just as hurtful is how these Americans were described and depicted on the floor of this House during the debate about cuts to SNAP. During the debate on the farm bill, some Republican Members came to the floor to justify cuts to SNAP as a way to prevent murderers, rapists, and pedophiles from getting a government benefit.

Poor people have been routinely characterized as ''those people,'' as part of a culture of dependency. They have been described as ''lazy.''

Mr. Speaker, I am sick and tired of poor people being demonized. I am sick and tired of their struggle being belittled. We are here to represent all people, including those struggling in poverty.

Unfortunately, insults continue.

For the most part, we try to keep campaign rhetoric out of the debate on the House floor. However, today I want to highlight some rhetoric that is even more vile than even some of the language that was used on the House floor during the SNAP debate.

A few weeks ago, a Republican candidate for United States Senate in South Dakota actually equated SNAP recipients to wild animals. That's right. We are now at a point where it is apparently okay for political candidates to denigrate our fellow citizens by comparing them to animals.

Dr. Annette Bosworth shared a viral image on her Facebook page that said the following:

> The food stamp program is administered by the U.S. Department of Agriculture. They proudly report that they distribute free meals and food stamps to over 46 million people on an annual basis. Meanwhile, the National Park Service, run by the U.S. Department of the Interior, asks us, Please do not feed the animals. Their stated reason for this policy being that . . . the animals will grow dependent on the handouts, and then they will never learn to take care of themselves.

The post continues:

> This concludes today's lesson. Any questions?

□ 1015

What an incredibly offensive thing for anybody to say.

Mr. Speaker, I was taught to love my neighbor. I was taught to care about the people and to strive to make everyone's life better, and what is being tolerated as political dialogue violates

those teachings and my core beliefs in humanity.

We can all do better. Some of us may need a hand up in order to get by, but that doesn't mean that they are lesser people for it. They deserve our respect, and they deserve our help while they are struggling.

It is hard to be poor, and because of many of the actions that have been taken by this Congress, it is even harder to get out of poverty.

Dr. Bosworth should apologize to the 46 million of her fellow Americans who need SNAP to put food on their tables. She should apologize to the nearly 50 million of her fellow Americans who struggle with hunger and don't know where their next meal will come from, and Republicans should repudiate her disgusting remarks.

I am an optimist. I believe we can end hunger, and I believe we can end poverty in America, if we just make the commitment to do so, but hurtful rhetoric like this simply divides us and does nothing to help us achieve the worthy goal of ending hunger now.

Hunger is a political condition. We have the food, and we have the ability to make certain that nobody in this country goes hungry, but we lack the political will; and demonizing the poor, as so many in this Chamber have done and continue to do so, is a sad commentary on this Congress.

Our government has a special obligation to the most vulnerable. It is time we lived up to that obligation. The war against the poor must stop.

## IN SUPPORT OF CHARTER SCHOOLS

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. MCHENRY) for 5 minutes.

Mr. MCHENRY. Mr. Speaker, I rise today in support of National Charter Schools Week. In preparation for National Charter Schools Week, I visited a lot of charter schools that are in my district that I had not yet visited, and I took some time to understand what exactly they do that is unique and different from other charter schools.

What I found is that a school, a curriculum, and a student body that was fitting in one place was very different in another charter. What I learned is that diversity actually delivers a better result for those student populations.

There was Pinnacle Classical Academy in Shelby, North Carolina, a charter that utilizes a classical learning model focused on providing their students with the skills they need to succeed in the 21st Century.

Then there was Evergreen Community Charter School in Asheville. Evergreen employs a holistic education model with a goal of teaching their students the importance of environmental stewardship and community service.

Finally, this past week, I visited Mountain Island Charter School in Mount Holly. Mountain Island has a traditional curriculum focused on building the character of students and instilling a spirit for community within them.

Each one of those three charter schools, as well as the others that are in my district and, I think, across America, have a unique learning environment. What I have found in these schools is that these students flourish in that right environment, and there is a unique environment for every student to find success. One student's successful environment is so different than another.

While each school was different, their similarities highlight the benefits of charters. Each school utilizes a challenging curriculum that encourages not just the students, but their parents as well, to stay involved. That parental involvement is such an important part of the educational process.

After each of these visits, it is clear that our educational system would hugely benefit by expanding access to charter schools. I am proud to cosponsor H.R. 10.

I look forward to voting for it this week, in the hopes of giving all American children greater access to quality charter schools and educational opportunities of their choice and their parents' choice, so that we have a better-educated workforce and a stronger America.

## THE AMERICAN PEOPLE NEED A VOTE ON EXTENDED UNEMPLOYMENT INSURANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan (Mr. KILDEE) for 5 minutes.

Mr. KILDEE. Mr. Speaker, it has been 1 month since the Senate acted in a bipartisan fashion to pass emergency unemployment extension.

Just hours after the Senate acted, I introduced a bill, H.R. 4415, the same language passed by the Senate. It is fully paid for, would not increase the deficit, unlike the hundreds of billions of dollars in permanent tax breaks that the Republican leadership intends to bring to the floor this week.

A month later, we still have no vote scheduled for extending unemployment insurance for millions of Americans—no vote, despite the fact that over 150 Members of Congress, Democrats and Republicans, have cosponsored H.R. 4415; no vote, despite the fact that 2.6 million Americans have already lost this important benefit and 2.8 million will have lost that benefit by the end of the month, almost 3 million Americans; no vote, with 72,000 individuals, hardworking Americans, every week at risk of losing their unemployment insurance if we don't act.

Helping jobless Americans who are actively looking for work is not only the right thing to do, but we have done this before. We have done this under Democratic administrations and Republican administrations. It is not a handout. It is simply a lifeline to help those folks who have lost their job stay above ground, above water, before they get their next job.

This should not be a partisan issue; yet, yesterday, the Republican leadership said no to letting some of these jobless Americans testify at a Capitol Hill hearing. We were locked out of the room that we had requested.

2.8 million jobless Americans, they may be invisible to the House Republican leadership, but they will not be silenced.

While they were locked out of the hearing room at the Rayburn House Office Building, I and other Members joined these unemployed Americans yesterday, went to the steps of the Capitol, and listened to them as they told their stories. This is their Capitol; it is not ours. It belongs to them, and their voices deserve to be heard.

I also asked hardworking Americans who are unemployed to tweet and email me their stories. My newsfeed and inbox was flooded with stories of people just trying to get by, struggling to pay their rent, struggling to feed their families as they continue to be denied a vote in the House of Representatives to renew unemployment insurance.

They have continued to be denied their voice in the House of Representatives, and this is the people's House. So what I would like to do with my remaining time is just tell a few of the stories that have come in. Lynette B. says:

> We just received our foreclosure letter on our home. I am 49 years old, and this is certainly not where I see myself at this age. I am educated, and I have been applying to no less than three jobs per day, only to not get a reply to most of them, or else I am overqualified.

Jennifer S., this is Jennifer and her family:

> I never thought I would be in this position, unemployed and worrying about feeding my two growing boys, 14 and 9. I have had to go to food pantries to keep food on the table. I am behind in my car payment and the utilities since my unemployment benefits stopped December 28.

Laura B. writes:

> I need the extension, so I can afford to keep the Internet on to look for jobs and afford the gas to go to interviews. It's very hard out there, and there are so many unemployed people looking for each job, that the chances are slim.

Angela M. writes:

> Please help with UI. I have lost almost everything, sold my car, pawned my wedding rings, selling furniture to keep a rented roof over my kids' heads.

Elaine G. writes:

> I live with my 27-year-old daughter and sleep on an air mattress. I have no phone. I complete job applications now and ask employers to contact me through email. I expect, any day, that my car will be repossessed, as soon as the finance company is able to locate the car.

Carol C. writes:

> Come June 1, I will have to leave my apartment. My car, phone, Internet will be gone.

I have no money for essentials like good toilet paper and soap. How does somebody find a job?

Thank you, Mr. Speaker, for allowing me to raise these voices. These are real Americans. They are real stories.

Some of the questions we face in this Congress are complicated. This one is simple. Take up H.R. 4415, and we can take away the pain that so many Americans—almost 3 million Americans—are facing.

## HONORING THE EXTRAORDINARY LIFE OF JONI EARECKSON TADA

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. HARPER) for 5 minutes.

Mr. HARPER. Mr. Speaker, I rise today to recognize the extraordinary life of Joni Eareckson Tada.

When Joni was 17 years old, she was just like any other high school graduate. She was thrilled to be on the brink of college, and she was excited to spend a summer swimming in the nearby Chesapeake Bay.

With high school behind her, she was ready to really begin her life. She was not prepared, however, to have her fourth cervical vertebrae crushed in a terrible accident, an accident which would render her a paralyzed quadriplegic and shatter her mobility and independence forever.

Unfortunately, that is exactly what happened. On July 30, 1967, while diving with her sister, Joni misjudged the depth of the water and snapped her neck at the bottom of the water. She lost all movement in her hands and legs and was rushed, motionless, to the hospital.

Joni spent many grueling months there and often thought about killing herself. She thought her life was not worth living, and she didn't want to be a burden on her loved ones.

''There were many nights I would wrench my head back and forth on the pillow, hoping to break my neck up at a higher level. I wanted to die,'' Joni later said.

There were times she even asked her friends to help her commit suicide. She was desperate to end her life; but despite her intense depression, despite her intense physical suffering, it was during this time that Joni turned to her Christian faith and began to search for new purpose in her tragedy.

She studied her Bible, leaned on her friends and family, and prayed for guidance, until she realized, almost overnight, that while she would never be able to walk again, she could choose to live through her disability. The Lord could use her to inspire and encourage others.

So she resolved, ''One night, lying there in the hospital, I said, 'God, if I can't die, please show me how to live.' ''

I am glad to say, Mr. Speaker, that she has lived well, is one of the most inspirational figures I know, and has touched so many lives with her incredible story. Let me briefly outline some of her many accomplishments and undertakings.

During a 2-year rehabilitation period after she left the hospital, Joni learned how to hold a paintbrush using her teeth. She labored away at this skill and often struggled, until she mastered the technique. Today, her artwork is prized around the world and is just one of the many ways she has provided inspiration.

In 1979, she founded Joni and Friends, a Christian ministry dedicated to serving the disabled community around the world. It partners with local churches to provide resources and support for thousands of families afflicted by disabilities. In fact, her organization has served families in 47 countries and, in 2006, opened a new facility in the United States.

Just a few weeks ago, I had the pleasure to meet and talk with Joni about her ministry and was privileged to introduce her before she spoke at Belhaven University in Jackson, Mississippi.

□ 1030

The ministry does such incredible work. And let me tell you, I don't think she has any plans of slowing down.

In addition to all this, she has somehow found time to publish over 50 books, many of which are critically acclaimed and rank on bestseller lists. Her radio show, ''Joni and Friends,'' is broadcast in over 1,000 outlets and, in 2002, won the Radio Program of the Year award from the National Religious Broadcasters Association.

Joni has even helped us get things done here in Washington. She has represented the disabled on numerous government committees and was instrumental in the passage of the Americans with Disabilities Act. And she continues to help.

As for awards, her list is very long. She is the recipient of the Victory Award from the National Rehabilitation Hospital, the Golden Word Award from the International Bible Society, and the Courage Award from the Courage Rehabilitation Center. She is a member of the Christian Booksellers Association's Hall of Honor and is a recipient of the William Wilberforce Award.

Joni holds honorary degrees from Westminster Theological Seminary, Biola University, Indiana Wesleyan University, Columbia International University, Lancaster Bible College, Gordon College, and Western Maryland College.

As I said, she is quite the achiever. And how does she really do it? Well, you know, Mr. Speaker, I think something that C.S. Lewis once said helps to answer that. He said:

> If you read history, you will find that the people who did most for the present world were precisely those who thought most of the next. It is since people have largely ceased to think of the other world that they have become so ineffective in this world.

I think Joni understands this. Her mind is truly set on another place. Her life has been extraordinary.

So, again, on behalf of the House of Representatives, I would like to recognize and celebrate the life of Joni Eareckson Tada, a courageous woman who truly knows how to live.

## THE OLDER AMERICANS ACT

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Oregon (Ms. BONAMICI) for 5 minutes.

Ms. BONAMICI. Mr. Speaker, May is Older Americans Month, and today I rise to call attention to historic legislation that has for decades served as a lifeline to our country's seniors.

The Older Americans Act is responsible for critical services, like housing, nutrition, and employment assistance. For many seniors, the Older Americans Act is responsible for the delivery of their only warm meal of the day and their only social interaction.

The legislation expired in 2011; and today I am speaking in support of H.R. 4122, the bill I introduced with the gentleman from Texas, Congressman RUBÉN HINOJOSA, to reauthorize the Older Americans Act.

Congress first passed the Older Americans Act in 1965 as one of President Lyndon Johnson's Great Society programs. Its goal is to ensure that our seniors age with dignity, maintain independence for as long as possible, and do not grow old in poverty.

Over the years, the OAA has been reauthorized and improved upon to meet the needs of the changing population. As Americans live longer, our policy needs to keep pace.

Our legislation includes stronger elder abuse protections, modernized senior centers, improved transportation services, and other programs that promote seniors' independence.

One of the titles in the Older Americans Act provides important employment support to the country's seniors, something they need now more than ever. The Senior Community Service Employment Program provides job training and job placement for low-income seniors. Many of the people who use this important program were laid off during the recession, only to see their position disappear altogether during the recovery. Now they find that they lack the necessary skills to fill the new jobs that have been created, and they must compete with a younger, inexperienced workforce willing to accept wages lower than their earning potential.

This important program, known as SCSEP, provides specialized training for these mature workers. By partnering with local nonprofits and State agencies, SCSEP helps older Americans develop new skills and then pairs them with employers.

I recently met with several SCSEP participants at the Forest Grove, Oregon, senior center in my district, and I heard firsthand how the program

helps people get back on their feet. Programs like this are exactly what many of the long-term unemployed need. And while we continue to debate extending the emergency unemployment program, SCSEP is addressing the problem head-on for many of our constituents by offering a solution that is good for employees, businesses, and the economy as a whole.

Mr. Speaker, the Older Americans Act was developed so our country's seniors could age with dignity. Today it continues to provide support to older Americans who are eager to work and live independent lives as they age. The Senate has advanced its own bipartisan Older Americans Act bill, and I am hopeful my colleagues will follow suit and support H.R. 4122.

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 4192. An act to amend the Act entitled ''An Act to regulate the height of buildings in the District of Columbia'' to clarify the rules of the District of Columbia regarding human occupancy of penthouses above the top story of the building upon which the penthouse is placed.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 34 minutes a.m.), the House stood in recess.

□ 1200

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker at noon.

## PRAYER

Reverend Don Williams, Maine State Police, Augusta, Maine, offered the following prayer:

I thank You, God, for giving me the opportunity to represent You and the Maine State Police and the people of the great State of Maine. I pray that I represent them well, as should be the desire of this great body as they represent their States.

My dearest Heavenly Father, I come to You today on behalf of this body of Representatives from our great and wonderful United States. As they represent their people, I ask that You give them wisdom and understanding from above.

God, we all need Your wisdom. I thank You for these men and women who have given of themselves to represent their people and make decisions that will affect all the people of this great and wonderful Nation.

God, please give them the character and integrity to rule this Nation. Give them strength to stand true to their beliefs and the courage to stand for what is true and right. Help us to be faithful to Your Word. Lord, I ask for Your blessing to return to our great and wonderful Nation.

In thy Holy Name, I pray.

Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. WILLIAMS) come forward and lead the House in the Pledge of Allegiance.

Mr. WILLIAMS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## WELCOMING REVEREND DON WILLIAMS

The SPEAKER. Without objection, the gentleman from Maine (Mr. MICHAUD) is recognized for 1 minute.

There was no objection.

Mr. MICHAUD. Mr. Speaker, I rise today to welcome Chaplain Donald Williams as today's guest chaplain.

Chaplain Williams is originally from Springfield, Missouri, but he came to Maine in 1985, where he served as pastor of the Fellowship Baptist Church.

Chaplain Williams was sworn in as deputy sheriff and chaplain for the Kennebec County Sheriff's Office in 1987. In addition to serving as chaplain for the Maine State Police and Augusta Police Department, he is involved with the Maine Law Enforcement Chaplain Corps and the State's Criminal Justice Academy.

Chaplain Williams has gone above and beyond in serving the spiritual needs of Maine's police force for over 20 years. His remarkable service was reflected in his nomination for the 2010 National Sheriff's Association Chaplain of the Year award.

He is a true asset to our State and our country. I am proud to stand with him here today.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN of Tennessee). The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

## ICANN

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Mr. Speaker, the President recently announced that the U.S. Commerce Department would end its Internet agreement with ICANN, a nonprofit organization who has overseen our databases since 1998.

President Obama's plans could lead to international control and come at a time when nations all over the world are looking for any technological advantage they can gain over the United States.

Both Republicans and Democrats alike agree that the Obama administration's decision to cut ties with ICANN could lead to an uncertain future that hinders free speech and threatens national security.

The United States has always been the most protective country of free speech in the entire world. As other countries and international organizations advocate for a more globalized Web, the trampling of our First Amendment rights and greater censorship will be at an even higher risk.

It is imperative that we closely monitor this situation moving forward to ensure that free speech in any medium is never censored.

In God we trust.

## FACES OF THE UNEMPLOYED

(Mr. CICILLINE asked and was given permission to address the House for 1 minute.)

Mr. CICILLINE. Mr. Speaker, last week, I unveiled the ''Faces of the Unemployed,'' an effort to help put a human face on the unemployment crisis.

Yesterday, out-of-work Americans from all over the country came to Congress to tell their story, and they were shut out of the Capitol Building. They were not allowed to share their experiences inside the building that belongs to them and in front of the people they sent to Congress.

Mr. Speaker, you may have stopped them from sharing their stories inside the Capitol yesterday, but with the ''Faces of the Unemployed,'' their faces and stories will be in the Halls of Congress every single day until you bring this bill to the floor for a vote.

There are 2.5 million Americans without this safety net today, and that number could reach nearly 5 million if Congress does not act to extend unemployment benefits before the end of this year. These are real Americans, many of whom have worked their whole lives until recently and now can't afford basic necessities. They spent all their savings. Some have become homeless, and others are on the verge of losing everything.

Every one of these people deserves a vote, Mr. Speaker. I urge you to bring the Senate bill to the floor for an immediate vote so that we can extend unemployment benefits and help millions of Americans.

## CELEBRATING ST. CHARLES' 180TH ANNIVERSARY

(Mr. HULTGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HULTGREN. Mr. Speaker, I rise today to celebrate the city of St. Charles' 180th anniversary this May.

Known as the ''Pride of the Fox,'' St. Charles has earned its reputation, boasting beautiful parks, innovative schools, and unique architecture.

Formerly known as Charleston, the city was incorporated 3 years before the city of Chicago. In 2011, St. Charles was named the number one city nationwide in which to raise a family by Family Circle magazine.

From RiverFest to the nationally acclaimed Scarecrow Festival, from Hotel Baker to high schools that graduate an average of 95 percent of seniors each year, St. Charles has been an ideal center of commerce, family, fun, and rest. The city leads by example in Illinois, and I am proud to celebrate its many years of prosperity.

As we celebrate this 180th anniversary, I would also like to give special recognition to someone's 18th anniversary—of birth, that is. My daughter Kylie, who is my princess, turns 18 today. I wish I could be with you today, Kylie, but happy birthday.

## TEACHER APPRECIATION WEEK

(Mr. HIGGINS asked and was given permission to address the House for 1 minute.)

Mr. HIGGINS. Mr. Speaker, I rise today to recognize Teacher Appreciation Week.

We know that a good education is critical for today's youth to have a successful future. We owe our thanks to the teachers who dedicate themselves to providing this.

The need for education begins early, setting children on a positive path for learning at a young age. And, as students get older, it is essential to provide them with the skills, especially math and science education, that will give them the ability to compete in a globalized economy.

Mr. Speaker, Congress should use this week to recommit ourselves to fund and support programs that improve education for our children. Education is the most powerful tool we have to fight poverty in our neighborhoods, improve opportunities for our youth, build stronger communities, and create a more successful tomorrow.

## SUPPORTING THE SELECT COMMITTEE ON BENGHAZI

(Mr. MARCHANT asked and was given permission to address the House for 1 minute.)

Mr. MARCHANT. Mr. Speaker, I rise today to support the establishment of the select committee on Benghazi.

Constituents in my district demand to know what really happened on September 11, 2012, in Libya. Almost 2 years have passed, and Congress continues to get stonewalled by the administration. The most serious of these offenses is that the terrorists who are responsible for this action have not yet been brought to justice.

The creation of a House select committee is a serious matter. We owe this to the families and loved ones that were lost. This is the best way forward to uncover what actually happened. Under the leadership of Congressman TREY GOWDY, I am confident we will get to the bottom of this.

I urge all of my colleagues to join me in supporting the creation of the select committee on Benghazi.

## BRING THEM HOME

(Ms. HAHN asked and was given permission to address the House for 1 minute.)

Ms. HAHN. Mr. Speaker, my colleague from New York just recently talked about education and why it is so important and what a great tool it is to fight poverty and provide for the future of our young people, which is why what I am going to say is even more serious.

In the middle of the night on April 15, hundreds of girls were abducted from their beds in a school in Nigeria. The militant terrorist group Boko Haram is now planning to sell these young women into sex slavery for just $12 a girl.

I have just gotten back from the Nigerian Embassy. My colleagues and I met with Nigerian officials for updates on this ongoing tragedy and to stand in unity behind strengthened efforts to bring these girls back home to their families.

As a mother and a grandmother, I cannot imagine the pain the parents of these girls are experiencing. Many of these parents are terrified to speak to the media for fear of what might happen to their daughters.

I appreciate our President's new commitment to help the Nigerian Government bring these girls home. These girls were pursuing their education, despite threats from a terrorist group bent on preventing the education of women.

We cannot stand idly by while fear and violence oppress the freedom and dreams of women around the world.

## MEDIA IDENTIFY AS DEMOCRATS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, there are lots of reasons why the national media leans liberal. Surely, reporters' political party affiliation explains some of their bias.

A new study of the media by two Indiana University professors found that among journalists who choose a side, Democrats outnumber Republicans by four to one. Maybe that explains why the liberal national media have largely ignored the IRS and Benghazi scandals, dismissed climate change skeptics, and sugarcoated ObamaCare.

It shouldn't surprise us that journalists have removed from their code of ethics the requirement that their ''news reports should be free of opinion or bias and represent all sides of the issue.''

Isn't it incredible that it has been removed from the journalists' code of ethics?

The media should give the American people the facts, not tell them what to think.

## STOP THE GAMES

(Mr. ELLISON asked and was given permission to address the House for 1 minute.)

Mr. ELLISON. Mr. Speaker, while the Democrats are working hard to address the needs of working Americans, over 2.5 million having been left out in the cold since the Republicans refused to bring up a bill, which is paid for, to extend unemployment insurance. Republicans are busy with yet another partisan, political exploitation of the tragedy in Benghazi.

Yesterday, citizens had to go to the steps of the Capitol to talk about how they have lost their jobs and their unemployment insurance, and now they are at their wits' end and at the end of the family's budget. They need a responsive government to step up. Yet Republicans are announcing a select committee on Benghazi, despite already having had 13 hearings, 25,000 pages of document requests, and 50 briefings.

This is an exploitation of a serious tragedy. We know what happened. But, you know what? It is politics.

Unfortunately, the American people need a responsive government to help them, like the 2.5 million people who are desperately in need of the opportunity for their government to step forward to help them with this unemployment crisis.

We can do more. We have got to do it now. Stop the games.

□ 1215

## MOLDOVA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, with Russian-backed militants creating chaos in Ukraine, neighboring Moldova has put their forces on high alert.

Moldova and Ukraine share a similar problem of breakaway states within their borders. In fact, there is evidence that Russian forces located in the Transnistria region of Moldova have been involved in the recent violence seen in Odessa, Ukraine.

Moldova, just like Ukraine, wishes for a better relationship with their European neighbors, but could see its attempts to cement friendships undermined by pro-Russian provocateurs.

We should make it clear that any effort to undermine Moldova's sovereignty will not be tolerated. Last week, I introduced a bipartisan resolution that calls on this House to support Moldovan independence and oppose aggression by the Russian Federation.

It is clear that Vladimir Putin will take advantage of any sign of weakness. We need to display strength on behalf of our friends in the region, engage them, and support their right to defend the independent Republic of Moldova from aggressive actions.

## INTRODUCING THE PLANNING ACTIVELY FOR CANCER TREATMENT ACT

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, I rise to draw attention to the serious gaps in our cancer care system, a system the Institute of Medicine has deemed in crisis.

For too many cancer patients, the process of a cancer diagnosis and treatment is overwhelming. Patients must navigate treatment provided by multiple providers, with little help to coordinate the treatments, the side effects, and the psychosocial impacts.

While some providers involve their patients actively in their cancer care, we need to make it the standard, not the exception. That is why I have introduced the Planning Actively for Cancer Treatment, or PACT, Act with my Republican colleague, Representative BOUSTANY from Louisiana.

The PACT Act would provide a personalized roadmap to cancer care developed by the patient and provider. These plans have been shown to improve patient outcomes, increase patient satisfaction, and reduce unnecessary utilization of scarce health care facilities.

That is why cancer patient research and provider groups like the Lymphoma Research Foundation and the National Coalition for Cancer Survivorship, they all support this bill.

With the PACT Act, we have an opportunity to make cancer patients better, along with the health care systems that care for them.

I urge my colleagues to cosponsor this important bill.

## BLATANT MISMANAGEMENT OF THE VA

(Mr. FARENTHOLD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARENTHOLD. Mr. Speaker, I am outraged over reports involving the care of our veterans and the blatant mismanagement at the VA.

We have made promises to our Nation's veterans, and, yet, wounded veterans are waiting months and even years, with some even dying due to backlogs at the VA.

I found out yesterday a veteran in my district died from excessive delays because he was unable to get necessary heart surgery. Delays at the VA hospital in Phoenix may have led to additional deaths.

Reportedly, VA officials have ordered hospital workers to shield this information in order to hide incredibly long waits. Workers at a VA clinic in Fort Collins, Colorado, were supposedly told to falsify appointment records to escape retribution for not meeting agency-imposed goals. If they didn't do that, they were going to end up on a bad boys list.

Mr. Speaker, if true, these reports demonstrate a serious problem within the VA. The brave Americans who served our country did not wait months or years to answer the call to protect our freedom. They deserve the best care that we can give them in a timely manner.

Unfortunately, under current leadership at the VA, that seems impossible. If Secretary Shinseki can't get this done, President Obama needs to find somebody who can.

## ENSURING THAT ALL VETERANS AND THEIR SPOUSES HAVE ACCESS TO EARNED BENEFITS

(Ms. TITUS asked and was given permission to address the House for 1 minute.)

Ms. TITUS. Mr. Speaker, last week, during the VA approps debate, I spoke about Madelynn Taylor, a veteran being denied the right to be interred with her spouse, Jean, in the Idaho State Veterans Cemetery because they are lesbians.

Idaho does not recognize their marriage and is denying the couple the honor and dignity earned through Madelynn's service in the U.S. Navy. Clearly, LGBT veterans continue to face discrimination.

Nearly a year after the landmark decision striking down DOMA, the VA still does not have a clear policy to ensure all veterans and their spouses have access to their earned benefits.

In response to the situation, Idaho resident and 27-year Army veteran, Colonel Barry Johnson, offered Madelynn and Jean his plot at the State cemetery stating:

> Madelynn loves her country. She wants her partner by her side, and she wants to eternally rest among veterans in the State she made home.

She deserves that. We need more people like the colonel here in Congress, willing to speak up on behalf of all our veterans and their families who deserve to receive the benefits that they have earned.

## CONGRATULATING HEBREW ACADEMY JUMP TEAM

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate the team from Hebrew Academy in South Florida for winning this year's National Council of Synagogue Youth JUMP competition.

Schools across the country were charged with creating events related to Israel advocacy, Jewish values, Holocaust remembrance, and bullying prevention. Through this competition, students develop and build critical aspects of leadership that can be applied throughout their lives.

For their team's winning project, the Hebrew Academy JUMP team created an Israel awareness day, developed a bullying awareness week and discussion groups about cliques and bullying, and created a remembrance project that engaged Holocaust survivors to have their stories integrated in their school's Holocaust curriculum.

I congratulate these impressive students on what they have accomplished for our community and for their victory in the national competition.

At this time, Mr. Speaker, I would like to submit into the RECORD the names of the exceptional Hebrew Academy JUMP team members.

They are students Jackie Olemberg, Alix Klein, Ariela Stein, Jacob Mitrani, Ariela Isrealov, Merah Frank, Adina Bronstein, Shane Hershkowitz, Madison Emas, Danny Bister; and faculty Rabbi Avi Fried.

## CONDEMNING THE ABDUCTION OF THE NIGERIAN SCHOOL GIRLS

(Ms. WILSON of Florida asked and was given permission to address the House for 1 minute.)

Ms. WILSON of Florida. Mr. Speaker, last night, I introduced a bipartisan resolution condemning the abduction of Nigerian school girls by the terrorist group Boko Haram, which has claimed responsibility.

Leadership of the U.S. House Foreign Affairs Committee and the Subcommittee on Africa joined me and cosponsored House Resolution 573.

Mr. Speaker, I am personally deeply disturbed by this atrocity, and it shines a light on the terror that so many girls face around the world every day in attaining the basic right of an education.

We must do everything in our power to ensure the safe return of these precious children and strengthen efforts to protect them from those who conduct violent attacks.

I support Secretary Kerry's decision to send a security team to Nigeria. It will take the efforts of the Nigerian Government, the United States Government, and the international community to rescue the missing young

girls. These young women could be our daughters, our sisters, our nieces.

Mr. Speaker, the terror is still continuing as I stand and address this House. We must end this nightmare for these girls and for girls all over the world.

## RESOLUTION RELATING TO THE CONSIDERATION OF HOUSE REPORT 113–415 AND AN ACCOMPANYING RESOLUTION, AND PROVIDING FOR CONSIDERATION OF H. RES. 565, APPOINTMENT OF SPECIAL COUNSEL TO INVESTIGATE INTERNAL REVENUE SERVICE

Mr. NUGENT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 568 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 568

*Resolved*, That if House Report 113-415 is called up by direction of the Committee on Oversight and Government Reform: (a) all points of order against the report are waived and the report shall be considered as read; and

(b)(1) an accompanying resolution offered by direction of the Committee on Oversight and Government Reform shall be considered as read and shall not be subject to a point of order; and

(2) the previous question shall be considered as ordered on such resolution to adoption without intervening motion or demand for division of the question except: (i) 50 minutes of debate equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform or their respective designees; (ii) after conclusion of debate one motion to refer if offered by Representative Cummings of Maryland or his designee which shall be separately debatable for 10 minutes equally divided and controlled by the proponent and an opponent; and (iii) one motion to recommit with or without instructions.

SEC. 2. Upon adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the resolution (H. Res. 565) calling on Attorney General Eric H. Holder, Jr., to appoint a special counsel to investigate the targeting of conservative nonprofit groups by the Internal Revenue Service. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution to adoption without intervening motion or demand for division of the question except 40 minutes of debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 hour.

Mr. NUGENT. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. NUGENT. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. NUGENT. Mr. Speaker, I rise in support of this rule, H. Res. 568.

House Resolution 568 provides for consideration of two important resolutions. Both resolutions are critical to getting to the bottom of the IRS' targeting of conservative nonprofit groups, and they are critical to holding this government accountable.

The groups who are discriminated against deserve to know the full truth and so do the American people. To this day, Mr. Speaker, no one has been held accountable for the actions of the IRS.

I wish that the underlying resolutions weren't necessary; but, once again, the self-proclaimed ''most transparent administration in history'' hasn't been helping much in providing the answers to the American people that they so rightly deserve.

For example, one of the underlying resolutions, H. Res. 565, calls for the Attorney General to appoint a special counsel to investigate the targeting that took place.

Again, it is frustrating that this House even needs to take this step, Mr. Speaker; but as we have come to find out, the Justice Department chose a Democratic political supporter to lead their investigation into the IRS' actions. This attorney donated over $6,000 to President Obama's election campaigns, and if that is not a conflict of interest, I don't know what it is.

That is extremely disappointing to me because this administration had the opportunity to give Americans assurances that they wouldn't stand for the IRS' conduct, they wouldn't allow an agency to be a tool to punish people for their political beliefs and would work diligently to root out this behavior and hold the appropriate people accountable.

Instead, the administration severely undermined the credibility of the investigation at every turn. We need impartiality and objectiveness from this administration; and, Mr. Speaker, we just didn't get it.

We have hit a wall, Mr. Speaker. It is time we had a special counsel to look into the issue so we can fully understand the depths of the targeting.

What we do know, Mr. Speaker, is that all signs point to Lois Lerner as a central figure in this scandal. Ms. Lerner has been unwilling to answer questions before the Oversight and Government Reform Committee, despite giving testimony to two other bodies.

Her actions to this point beg the question: What is she trying to hide?

Ms. Lerner has roughly a year—she has had a year to work with the committee and ample time to comply with this subpoena. Unfortunately, she has refused to do so.

When called to testify before the committee, Lois Lerner simultaneously asserted her innocence, while depriving the American people of the opportunity to get their questions answered.

Ms. Lerner made 17 separate factual assertions before invoking her Fifth Amendment right—17, Mr. Speaker.

In the words of my colleague from South Carolina, that is a lot of talking for someone who wants to remain silent.

□ 1230

Some people believe—me being one of them—that you can't do that. You can't make selective assertions and still invoke your Fifth Amendment right.

Mr. Speaker, I believe that Mrs. Lerner's conduct shows contempt for this body. I certainly do. I truly believe that. But that is what we are here today for, to have a debate, to see what the majority of this body believes.

This rule allows for the debate to happen and a vote to happen. It allows Congress to do its job, providing oversight of the executive branch.

If the contempt vote passes, it will place the issue into Federal court. It will be up to them to decide if we are accurate or off base. Let the court decide that. That is the appropriate step, because that is where the dispute between these two branches is supposed to reside. The judicial branch is the arbitrator between the executive branch and the legislative branch when it comes to issues like this. That is how a three-branch system works. We should let the process take place.

I support this rule, and I urge my colleagues to do the same.

With that, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I want to thank the gentleman from Florida (Mr. NUGENT) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Mr. Speaker, welcome to witch-hunt week here in the United States House of Representatives. Our economy is slowly recovering, slower than any of us would like. Millions of unemployed Americans have been left behind because their unemployment benefits have expired. Our immigration system is broken. Millions of Americans are living in poverty because they don't earn enough to make ends meet. And we have a pay equity issue where women, on average, earn less than men for doing the same job. I mean, climate change is a real issue and is getting worse.

So what is the response from the House Republican leadership? A jobs bill? No. A fully funded transportation bill? No. An extension of long-term unemployment benefits? No. Comprehensive immigration reform? No. An increase in the minimum wage? No way. A pay equity bill? No. A sensible energy policy? No. Of course not, not from this leadership.

You know, when it comes to jobs or improving the economy, my Republican friends have no ideas. And here is the deal: they are afraid the American people are going to figure this out. And so what do they do? They create distractions and diversions, more investigations, more investigations.

Mr. Speaker, instead of tackling the issues that actually matter to people, House Republicans are once again playing to cheap seats with hyperpartisan political witch-hunts.

Now, this rule before us today contains two bills. One would hold Lois Lerner, the former Director of the IRS Exempt Organizations in contempt of Congress; the other would appoint a special counsel to investigate the targeting of nonprofit groups by the IRS. And that is just today. The House Republican leadership will be doubling down on the crazy later this week by creating a select committee to exploit the tragedy of Benghazi. It is shameful.

This is ridiculous. The IRS clearly overstepped in the way they identified and targeted nonprofit groups. That is not an issue for debate. But an issue of this magnitude and importance, potential abuse by the Internal Revenue Service, deserves to be handled in a bipartisan and professional manner. That standard has not been achieved during these investigations.

I say ''these investigations,'' plural, because multiple committees have spent nearly a year looking into this. From nearly the beginning, Republicans have operated on their own and not in a bipartisan and professional manner. To date, 39 witnesses have been interviewed, more than 530,000 pages of documents have been reviewed, and the IRS has spent at least $14 million of taxpayer money cooperating with all of these requests and investigations.

And what do we have to show for all this work? We have had a circus in the Committee on Oversight and Government Reform—a circus. We have seen Ms. Lerner assert her Fifth Amendment rights, and we have seen Chairman ISSA literally cut the mic while Ranking Member CUMMINGS was speaking. In all my years as a Member of Congress and as a staff member, I have never seen such behavior in a committee before, ever.

And during this investigation, we have seen over 30 legal experts come together and state that Chairman ISSA's contempt proceedings—one of the bills that we are considering here today—are constitutionally deficient. In other words, more than 30 legal experts—both Democrats and Republicans, and also including former House counsels—believe that the courts would throw this contempt resolution out of court. Now, of course, Chairman ISSA is entitled to his own opinion, but we cannot just ignore the legal opinions of more than 30 legal experts, including two former House counsels.

Ranking Member CUMMINGS had a great idea, a sensible idea, and I can't quite understand why my friends on the other side haven't accepted it. He said let's hold a hearing with many of these legal experts and get to the bottom of why they feel Chairman ISSA's actions are deficient. But Chairman ISSA nixed that quickly and said no way, no hearings.

This is the Oversight Committee. This is the committee that is supposed to be nonpartisan, when you think about it. I mean, the investigations are supposed to have some credibility. But Chairman ISSA nixed that. In fact, he is refusing to hold such a hearing.

And actually, it just baffles me. If Chairman ISSA firmly believes that this contempt resolution has merit and has legal standing, then what is the harm in holding a hearing and considering these legal experts' opinions?

The truth is that Chairman ISSA and the Republican leadership really do not care about doing this fairly, and they never have. This is an exercise in political theater, designed for the conservative media closed information loop.

Mr. Speaker, speaking truth to power is important. Investigating abuses of power is even more important. But abusing the process in the name of investigating abuse is wrong. We have been down this road before. We have seen this kind of witch-hunt steamroll through this very Capitol. But not even Joseph McCarthy was able to strip away an American citizen's constitutional rights under the Fifth Amendment, as Chairman ISSA is trying to do.

The Congressional Research Service found that the last time Congress tried to hold witnesses in contempt after they asserted their Fifth Amendment right not to testify was in the 1950s and 1960s in Senator Joseph McCarthy's committee, the House un-American Activities Committee, and others. In nearly every case, the juries refused to convict or Federal courts overturned those convictions. This exercise that we are engaged in today is nearly identical to the actions of Senator McCarthy. It was wrong then; it is wrong now.

This is sad because it demeans this House of Representatives. It may be red meat for the extreme right wing, but for too many Americans, it adds to the cynicism that this is a place where trivial issues get debated passionately and important ones not at all.

Mr. Speaker, the IRS is a powerful agency. The Tax Code, itself, can be either daunting or beneficial, depending on where you sit. The IRS and the Code can be used to help people, like through the EITC, the child tax credit, and the R&D tax credits; or it could be used punitively, as it was during the Nixon administration.

The IRS, under the Obama administration, must be held to a high standard. We must keep politics out of the way the IRS is run and the way it operates. In fact, the hearings, depositions, and investigations held to date actually show that there was no White House involvement in this case—none.

The problem here is that the narrative that my Republican friends have doesn't fit the facts and they are frustrated, so they want to kick the ball down to the court and have more committees, more investigations, more special counsels. Maybe they will find something. In addition, these hearings that were held, these depositions and investigations show that the targeting of nonprofit groups by the IRS was not limited to conservative groups.

Unfortunately, this whole process is so political that my friends, the Republicans on the Oversight Committee, intentionally limited the scope of what they are focused on to just conservative groups. It doesn't matter what happened to progressive groups. The truth is that both liberal and conservative groups were targeted. That is a fact that is conveniently left out of the arguments and accusations posed by my friends on the Republican side.

Mr. Speaker, I understand what the Republicans are trying to do here. It is crystal clear. They do not want to talk about the issues that matter to people. From the economy to the environment to immigration, they don't want to talk about those issues because a majority of the American people disagree with them. They don't want to talk about those issues because they have no ideas, nothing, nothing to offer. They don't even want to talk about ObamaCare anymore now that 8 million Americans have health coverage. They don't know what to do now, so they are coming up with these desperate attempts to try to create distractions. So this is what they are left with: sad little scraps of political nonsense that they keep trying to peddle as leadership.

Mr. Speaker, this rule and resolution are colossal wastes of time. They do nothing. They do nothing at all to try to ensure that the IRS is above politics. They do nothing at all to try to achieve any kind of justice or truth.

I urge my colleagues to vote ''no'' and to get on with the business of actually solving real problems that affect real Americans.

I reserve the balance of my time.

Mr. NUGENT. Mr. Speaker, it is amazing that those on the other side of the aisle would say this is trivial. This impacted American citizens. And I won't disagree that it may have impacted those on the left; but, to a greater extent, it impacted those on the right. And to Americans, one of the most powerful organizations there is in America is the IRS. They can instill fear into your heart when you get that letter. So when you have one that does something that is so outrageous as what they have done, it is not trivial, at least not to the people I represent.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KELLY).

Mr. KELLY of Pennsylvania. Mr. Speaker, I thank the gentleman from Florida for yielding.

I am reminded of a passage in the Bible that you can see a speck of sawdust in your neighbor's eye but not the plank in your own.

We are talking about a resolution. Isn't it amazing that we have to go to a resolution to restore to the American people their faith and trust that they are quickly losing in the government because we will not finish the job. We will continue to backpedal. We will run around the edges, and we will try to put the spotlight someplace else.

This is not gender specific. This is not party specific. This has nothing to do with anything other than honesty and truth. To sit here and bloviate about something that doesn't really exist—oh, they are trying to move the spotlight somewhere else.

Well, I would invite all of you to go back to what it is when we came in here and took a pledge. It is not just a pledge, and it is not just a responsibility. It is an obligation to get to the truth. When we have to have a resolution asking the chief law enforcement officer of the country to appoint a special committee, how far have we fallen in the eyes of the people we represent?

Is there an issue here? Yes, there is. Are there things that have to be settled? Yes, there are.

A year ago, on May 10, I was 65. This Saturday, I will be 66. I have learned more about myself in the last year than the American people have learned about what the IRS had done to them. This covers all Americans. This is not a Republican issue. This is not a Democrat issue, a Libertarian, or an Independent issue.

Whenever we get to the point where absolutely defending the people we represent becomes secondary to a political agenda, then we have fallen far from where we were supposed to be. In this great House, so much has been decided on policy for the American people. Isn't it time to restore their faith and confidence in this model? And why we would sit back and scratch our heads and say: I don't know why our approval rating is so low. Maybe if we just answered the questions and answered them truthfully and were truly transparent, the American people wouldn't cast doubts on who it is that they elected to represent them.

I applaud this issue, and I applaud this resolution. Be it resolved that we will restore to the American people the trust and faith and confidence they have to have in their form of government.

Please, to talk about political maneuvering? We are making balloon animals and are trying to tell people: This is what you need to look at. Don't worry that we have taken away your personal freedoms and your personal liberties. That is not the issue. You see, the issue is, this November, we have got to get reelected.

So let's make it about something else. Let's turn it on gender. Let's turn it on pay inequality. Let's turn it on everything that we can possibly do and turn the light away from what the problem is, and that is the loss of faith and confidence by the people of this great country in the most remarkable model the world has ever known and who everybody would love to emulate but they can't.

It falls on our shoulders, not as Republicans or Democrats, but as representatives of the people of this great country, to get the answers that they deserve. Let's stop the fooling around about things that don't really pertain to this, and let's get them the answer.

And again, we have to have a resolution asking the chief law enforcement officer of the United States to do his job? That is pathetic.

□ 1245

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I have great respect for the gentleman from Pennsylvania, but I think he has kind of highlighted kind of the differences between the two parties here. He mentioned that we are trying to focus attention on gender inequalities and other issues. We are.

I think there is something wrong when women in this country make 77 cents on every dollar a man makes. I think that is outrageous. I think women ought to be paid the same as men to do the same job. So, yeah, that is an issue, and that is something we should talk about. And it is not just a women's issue, by the way; it is a family issue.

The Senate sent us over an immigration bill that would reduce the deficit by $900 billion over the next 20 years—$900 billion. They did it in a bipartisan way. We can't even get a vote here. We can't even get a vote here in the House of Representatives.

There are millions of our fellow citizens who are unemployed and whose unemployment benefits have run out. We can't even get a vote to extend unemployment benefits for these people—maybe because they don't have a super-PAC, maybe because those aren't their natural constituencies. I don't know what the reason is. But those are important issues. And, quite frankly, yes, that is what the American people want us to be talking about—things that matter to them.

The problem with what we are doing here today, this is so blatantly politically motivated, even in terms of the scope of the investigation, that it just is laughable. It is laughable.

Listening to the debate in the Rules Committee last night amongst those on the Oversight Committee, the back and forth, and realizing how broken that committee is, how partisan that committee has become because of the leadership in this House, it is really sad.

No one here is defending the IRS. No one here is defending Lois Lerner. But what we don't want to do is trample on the Constitution, and we don't want to unnecessarily politicize these proceedings, which is what is happening right now.

Mr. Speaker, at this time, I would like to yield 4 minutes to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY. Mr. Speaker, I thank my good friend, Mr. MCGOVERN from Massachusetts, a distinguished member of the Rules Committee, with whom I spent 5 hours last night. I wish my friend Mr. KELLY were still here on the floor because he reminds us we take an oath when we become a Member of Congress and at the beginning of every new Congress to defend and protect the Constitution of the United States. We don't take an oath to look at the best polling for our respective parties and pursue—no matter what—the issues that rile up our base.

At the Republican retreat earlier this year, two issues polled real well with their base: Benghazi and the IRS. Sadly, cynically, we are here today—irrespective of the constitutional rights of an American citizen who happened to be an IRS employee—bending and genuflecting at the altar of that polling data to fire up that base.

We are not here defending the Constitution, because if we were, we would be invoking our own history. There was a sad period known as the McCarthy era in this very body where constitutional rights of citizens—Federal employees and non-Federal employees—were trampled upon. The Fifth Amendment right is one of only 10 enumerated in the Constitution, and for a reason, because staying in the memories of our early colonists were the star-chambers that had occurred in Great Britain, the parent country, and even here. And they wanted to protect all citizens—innocent and guilty alike—from self-entrapment, from their own words being used against them in legal proceedings unfairly. They felt so passionate about it that it was one of only 10 enumerated rights in the Bill of Rights.

In the McCarthy era, there were some famous cases, U.S. v. Quinn being one of them, and another one, Hoag, in which the Supreme Court of the United States and District Courts of the United States found that an individual did not waive his or her Fifth Amendment rights simply because they had a prefatory statement proclaiming their innocence. As a matter of fact, in the Hoag case, Ms. Hoag actually participated at times in answering other questions, having already invoked her Fifth Amendment.

The standard is very high. If you have made it crystal clear that you intend to invoke your Fifth Amendment, it takes a lot to construe that has been waived. We Members of Congress who take that oath to the Constitution should err on the side of protection of constitutional rights, not simple waiver. But, of course, if our agenda isn't getting at the truth, if it is pandering to those two issues that polled so well with our base, Benghazi and IRS, then constitutional rights are incidental to the enterprise, and, sadly, that is what we are considering here today.

I don't think you have to be a Democrat or a Republican, a liberal or a conservative, to be concerned about protecting the constitutional rights of every citizen even for—and maybe especially for—non-heroic figures such as the woman we are dealing with today, Lois Lerner. Because when you trample on her rights, you have risked every American's rights. What is next? Who is next at the docket? While we are at it, when we are trampling the Fifth Amendment, what about the First? What about that sacred Second? What about the Fourth? What about any of those rights enumerated in the Bill of Rights?

This is not a noble enterprise we are about today, Mr. Speaker, and I urge this House to reject this rule and to reject the underlying contempt citation as not worthy of this body and not consistent with the oath each and every one of us takes.

Mr. NUGENT. Mr. Speaker, it is just interesting to hear the argument on the other side. I have spent 37, 38 years protecting people's rights. That is what I did. As a sheriff, we did things and lived within the law. We answered questions truthfully. That is all we are asking.

This is terrible that we have to get to this point, but at the end of the day, we are not taking her rights away. We are going to the court and asking the court, Are we right in our assumption in regards to what the House counsel had told us? Are we right? If we are not, they are going to tell us we are not.

So, she has due process. This whole thing about we are taking her due process away is just ludicrous. It doesn't make sense.

Mr. Speaker, I continue to reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I just remind the gentleman that 32 legal experts have said that my friends are wrong. I would like to yield to Mr. CONNOLLY to clarify that.

Mr. CONNOLLY. I thank my friend. Thirty-two legal experts have the other point of view. And, furthermore, I just say to my friend, if the answer to the House of Representatives is that if you want your constitutional rights to be protected, hire a lawyer, we will see you in court, that is not the oath we took.

It starts and stops here. What is the constitutional protection of citizens here on the floor of the House of Representatives? To simply say go hire a lawyer is a terrible message in terms of constitutional rights protection to the citizens of this country.

Mr. MCGOVERN. I reserve the balance of my time, Mr. Speaker.

Mr. NUGENT. Well, Mr. Speaker, I am not an attorney. That is what they say on commercials when somebody wants to give some legal advice: I am not an attorney.

What I will tell you from my past experience is that I can get attorneys' opinions on either side of an issue. That is what they get paid to do. Whether they are paid or unpaid, they all have an opinion. It doesn't mean their opinion is the right opinion. It just means that they have an opinion.

With that, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Just so everybody is clear here, we are not just talking about any attorney. We are talking about legal scholars. Quite frankly, the overwhelming opinion is that my friends are overreaching here, and, again, it makes a mockery of this House and especially at a time when we ought to be doing the people's work.

Millions of our fellow citizens who are unemployed can't even get a vote on the House floor to extend unemployment benefits. These are the people we are supposed to represent. We are telling them, forget it, you are on your own. We have all these excuses why we can't bring that to the floor.

The minimum wage, we have people working full-time in this country who are stuck in poverty. My friends went after people on SNAP, the program that they like to target, a program that provides food to hungry people, and they say everybody ought to get a job. Well, the majority of able-bodied people on that program work, and they earn so little because wages are so low that they still are entitled to some benefit. If you work in this country, you ought not to be in poverty.

So, Mr. Speaker, on both this issue of unemployment and the minimum wage and on the issue of immigration, those are the things we ought to be debating here today. That is what the American people—that would be solving problems, not creating partisan political theater.

So, Mr. Speaker, I am going to ask people to defeat the previous question. If they do, I will offer an amendment to the rule to bring up legislation that would restore unemployment insurance and provide much-needed relief to countless families across this country.

To discuss our proposal, I would like to yield 2½ minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I thank my friend from Massachusetts for yielding.

Mr. Speaker, I urge my colleagues to defeat the previous question so that we can immediately bring up H.R. 4415, which would restore unemployment benefits to 2.8 million Americans, people who have lost their job and are simply trying to find their next job and want to prevent their families from losing everything they have worked for in that period.

I heard the gentleman on the other side say that folks on this side are trying to change the subject to something else. You have got almost 3 million Americans who stand to lose everything they have worked for, everything that they have built over their lifetime, and this Congress has the power to act. We could do it today. The Senate passed an unemployment extension. The President will sign it.

On the other side, we heard that we don't want to take up UI because it is not paid for. So, we have a bill that the Senate passed in a bipartisan fashion that is paid for. It does not increase the deficit. You have got the bill you want. You have got the bill you asked for. It would save almost 3 million people from losing everything they have fought for.

Do we bring that to the floor? No vote on unemployment extension. We can talk about everything else, we can bring political messaging bills to the floor, but for the 2.8 million people who are losing everything, no vote for them, not in the House of Representatives today.

For the 72,000 people every week that are losing their unemployment benefits—hardworking Americans—some on the other side say they want to be unemployed. Yesterday, we had a group of unemployed citizens. We intended to have a hearing. We couldn't get a room. The Republican leadership wouldn't allow it. We went to the steps of the Capitol, and we heard these stories.

I suggest we take a look at the people in your own district, in your own districts back home who are unemployed, trying to find their next job, have lost their unemployment benefits, and look them in the face and tell them that the political messaging bills that are coming to this House are more important than preserving the life that these people have worked hard to create for themselves and their kids.

Some of the issues that we deal with in this House are really complex questions. Some of them are not so complicated. This is one that is simple: 2.8 million people could be helped only if this Congress will act.

Set aside this nonsense. Bring up H.R. 4415, and let's get back to the business of the American people.

Mr. NUGENT. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Speaker, I rise in support of the rule. Now, I think tyranny is worth discussing because when we look at what we are here to do today, it is to declare Lerner in contempt.

There is nothing more uniquely un-American than abusing the public's trust to target fellow countrymen based on their political beliefs. This is something—when you target your political enemies—that Lerner did and the IRS did, and you reward by expediting the President's own political operation. So you punish your enemies and you reward your friends—this is Soviet-style governance.

I would think everyone on both sides of the aisle would be very, very vociferous in opposition to what the IRS was doing to the American public. We only hear criticism now from the other side of our proceeding. My friends on

the other side of the dais have, no doubt, viewed this as a partisan witch-hunt. But let there be no mistake: we would not be here today if Ms. Lerner had not conducted her own partisan witch-hunt.

□ 1300

What Lois Lerner did is completely un-American, and it undermines the very fundamentals of the principles of what this country is founded upon; and if we don't hold Lois Lerner accountable for her actions—and this is about accountability in the government—then we are sending a message to future administrations that this type of Nixonian behavior is acceptable. Let's not send that message.

Mr. MCGOVERN. Mr. Speaker, wow, when we talk about tyranny, I should remind the gentleman that you have two bills coming to the floor under a closed rule—absolutely closed. Nobody can offer any amendments. It is your way or the highway. They are absolutely closed.

When you talk about tyranny, we can't get a vote on the House floor on unemployment compensation. We can't get a vote on minimum wage. We can't get a vote on pay equities. We can't get a vote on immigration reform.

I don't know what the gentleman is talking about. I mean, it is our side, those of us on this side that can't get our voices heard. Last session, you had one of the most closed Congresses in our history, after you promised a wide-open, transparent process. You have just shut everything down.

Even the scope of what this bill is focused on is closed in a very partisan way to focus only on abuses that deal with potential rightwing groups, conservative groups, but you totally cut out any abuse that might have happened to a liberal group or a progressive group, so I don't know what the gentleman is talking about.

This is a closed process. We talk about democracy and that we need to promote democracy around the world. We need a little democracy here in the House of Representatives. We don't have any.

Let me just say one other thing here, Mr. Speaker. We had 39 experts—39 witnesses that were interviewed by the committee, 39. Not one single one indicated there was any link between the White House and the IRS mess, not one.

I mean, if there had been a few, I guess we could have a debate here about whether we need to go further, but not one. So here is the problem: their narrative doesn't fit the facts, and they are upset about it.

I get it. You were hoping for some juicy conspiracy that doesn't exist, so you have to create more investigations, more investigations, all the while, we are neglecting our work, our duty to the people of this country.

Yes, let's make sure that the IRS is above politics. I am all with you on that. I don't want them tagging anybody for political reasons, and I am committed to that, and so is everybody on this side, but that is not what we are doing here.

This is witch-hunt week. Make no mistake about it because we are doing this today, and then we are doing Benghazi tomorrow. That is the theme of the week, and what a tragedy, what a tragedy when so much more needs to be done.

Mr. Speaker, I yield 1 minute to the gentleman from Colorado (Mr. POLIS), who is on the Rules Committee.

Mr. POLIS. Mr. Speaker, I concur with the gentleman from Massachusetts and appreciate his passion for his remarks.

This process is closed. Look, we have something that shouldn't be a controversial bill, extending the R&D tax credit, helping make American companies more competitive; and it has a cost, $155 billion, so let's talk about how we pay for that cost, so we can provide the certainty that our companies need to hire more people and grow.

We have an idea. I was proud to offer an amendment with Mr. CÁRDENAS and Mr. GARCIA. It had a bipartisan pay-for. It passed the Senate with more than two-thirds majority. We have a bipartisan bill, H.R. 15, in the House. We were able to use that to pay for this tax cut, over $200 billion.

Not only does our proposal, immigration reform, fully pay for the R&D tax credit, but it also reduces our deficit by $50 billion, and guess what, we were denied a vote on our amendment. There weren't even any ideas from the other side about how to pay for it.

If they voted it down, they voted it, but let's have a discussion. If you don't like our way of paying for it, find another. No Member of this House is even allowed to propose a way of paying for things under this rule. It is a guaranteed recipe for Republican tax-and-spend deficit policies.

Mr. NUGENT. Mr. Speaker, I do have to go back to the comments that my good friend from Massachusetts mentioned. Now, I wasn't here in 2008, but if you look back at the history, the Democrats controlled this body and the Rules Committee in 2008.

When Congress considered a contempt resolution in 2008, the rules opted to hereby the resolution, preventing Members from even debating it or holding a vote on the measure on the floor. They just said: here we are, we are bringing it to the floor for debate and a vote.

It is pretty open to me.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman from Florida for yielding. I can't cover all of the issues that are being raised here today, but I do want to say this: I spent 7½ years as a criminal court judge in Tennessee before coming to Congress trying felony criminal cases, and so I have interest in this question about the waiving of Fifth Amendment rights.

Let me just mention what some others have said about this. Alan Dershowitz of Harvard said Lois Lerner's statement of innocence opened a ''legal Pandora's box. You can't simply make statements about a subject and then plead the Fifth. Once you open the door to an area of inquiry, you have waived your Fifth Amendment right; you've waived your self-incrimination right on that subject matter.''

Paul Rothstein, a well-respected law professor at Georgetown University—and both of these gentlemen are very, very liberal politically. Professor Rothstein said of Lois Lerner, that she ''has run a very grave risk of having waived her right to refuse to testify on the details of things she has already generally talked about. She voluntarily talked about a lot of the same things that lawmakers wanted to ask her about in her opening statement. In that situation, when you voluntarily open up the subject they want to inquire into and it is all in the same proceeding, that would be a waiver.''

Cleta Mitchell, a lawyer who specializes in ethics laws stated, ''Lois Lerner came before the House Oversight and Government Reform Committee. She gave an opening statement in which she said, 'I'm not guilty, I haven't done anything wrong.' The second way in which she waived her Fifth Amendment privilege was when she voluntarily, willingly, agreed to meet with the Department of Justice lawyers. To me, this is a pretty clear case of how she has waived her Fifth Amendment rights not to testify and not to answer questions. She just is being selective, and the one place she will not answer questions is with anyone that she thinks might ask her hard questions.''

Hans von Spakovsky of The Heritage Foundation, another legal expert, said, ''Under the applicable rules of the Federal courts in the District of Columbia, the interview she gave to prosecutors meant that she waived her right to assert the Fifth Amendment.''

The SPEAKER pro tempore (Mr. HULTGREN). The time of the gentleman has expired.

Mr. NUGENT. I yield 30 seconds to the gentleman.

Mr. DUNCAN of Tennessee. If we allow somebody to come in and say they are not guilty—repeatedly say they haven't done anything wrong, if we allow people to say that and do that in these types of proceedings and then plead the Fifth, we are making a mockery of the justice system and making a mockery of the Fifth Amendment privilege in this country.

Last, I would just say this: there has been some mention about some liberal groups being targeted. There were over 200 conservative groups audited and targeted and investigated in this investigation. I think there were three that might have been classified as liberal.

It was so obvious what was intended by the IRS activities in this situation,

and so I support this rule and support the underlying resolution.

Mr. MCGOVERN. Mr. Speaker, I respect the comments of my friend, but I think the talk he just gave supports one of the points that we have been trying to make here, and that is we have 39 legal experts, former House counsels, who basically say that what my friends are doing here today are trampling on Ms. Lerner's constitutional rights.

It would seem to me that, if you wanted this whole circus to be a little bit more legitimate, that you would have agreed to what Chairman CUMMINGS had asked for, which was a hearing to bring in legal experts to actually talk about the merits of this before kind of rushing to the floor with this purely partisan bill.

The second thing I would say to my friend from Tennessee is, when you talk about the number of liberal groups targeted, one of the reasons why we are not talking about liberal groups being targeted here is because the majority kind of stacked the deck.

They formed the rules. They only want to focus on conservative groups, so that is why there is even more evidence of the fact that this is a purely partisan exercise.

I just want to say, so my colleagues are clear, not one witness—not one single witness interviewed by the committee identified any evidence that political bias motivated the use of the inappropriate selection criteria.

The inspector general, Russell George, was asked at a May 17, 2013, hearing before the Ways and Means Committee, ''Did you find any evidence of political motivation in the selection of the tax exemption applications?''

In response, the inspector general testified, ''We did not, sir.''

Oversight Committee staff asked all 39 witnesses whether they were aware of any political bias in the creation or use of inappropriate criteria. Not one identified even a single instance of political motivation or bias.

Look, there needs to be reforms to the IRS. We need to make sure that the IRS is above politics, but bringing this political circus, this witch-hunt, to the floor purely because it polls well amongst your base is ludicrous.

It is ludicrous because we should be focused on extending unemployment benefits for people who have lost their unemployment compensation. We should be raising the minimum wage. We should be passing immigration reform.

We should be dealing with the pay equity bill, so that women get paid the same amount as men do for working the same job.

It is also a family issue. We ought to be focused on getting this economy going; but instead, because my friends on the other side of the aisle don't have a clue on what to do, they are asking to look over here, let's do a distraction, let's do a diversion. I think this is outrageous.

I reserve the balance of my time.

Mr. NUGENT. Mr. Speaker, I love the comments about McCarthyism as it relates to this particular issue, but really, McCarthyism is the IRS. The IRS is targeting American citizens who have done nothing wrong, who merely wanted to express their freedom of expression that is guaranteed by the Constitution. That is all they wanted to do.

We hear that there is a bunch of liberal groups that were caught up. I don't believe so. The record will reflect that there was less than half a dozen, while there were conservative groups of over 200 that were targeted. I think that is pretty compelling, and those are the facts. It is not just my thought. It is the facts.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, let me just say this because facts are important, Inspector General J. Russell George testified before the Oversight Committee that his audit did not look at the IRS be-on-the-lookout list with regard to progressive groups. That is what the inspector general testified, so let's stop this partisanship.

I would say to my colleagues, if my friends want to do this correctly, if they want to do this in a way that has some credibility, they ought to do this in a nonpartisan way.

It is really quite shameful that the Oversight Committee has become so polarized and so politicized and that this whole issue is being brought before us in this way that really, quite frankly, I think is beneath this House.

We ought to do a proper oversight, but not purely because it polls well or do it in a way that plays well with a political base. We ought to do it in the right way.

The IRS should not be involved with politics, period. Whether it is going after conservative groups or liberal groups, that is absolutely unacceptable, and we ought to make sure that doesn't happen, but that is not what we are doing here.

What we are doing here is a witch-hunt. This is the first witch-hunt bill of the week. We have several that we are going to be doing this week, and I think our time could be better spent on helping the American people get back to work.

I reserve the balance of my time.

Mr. NUGENT. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, the minority is entitled to opinions, but not facts that just aren't so.

Our committee issued an extensive committee report, a staff report as to the targeting of conservatives. The minority offered no response, so the gentleman not on the committee might say something that just isn't so.

The targeting by the IRS was conservative groups. They were the ones that got the special treatment. They were the ones that were asked inappropriate questions. They were the ones that Lois Lerner said she did nothing wrong about, but she did.

□ 1315

Mr. MCGOVERN. How much time do I have left?

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MCGOVERN) has 2½ minutes remaining. The gentleman from Florida (Mr. NUGENT) has 14½ minutes remaining.

Mr. MCGOVERN. I yield myself 30 seconds.

Mr. Speaker, the Committee on Ways and Means Democrats found out that there was extensive scrutiny of liberal progressive groups, groups that had names ''Progressive,'' ''Occupy,'' and ''Acorn'' in their name. That is the Ways and Means Committee. That just goes to show how partisan this process has become, how politicized it has become. This is beneath this House.

If you do oversight, it ought to be nonpartisan. This has turned into a circus. This has turned into a witch-hunt. Enough of this. Let's start doing the people's work.

I reserve the balance of my time.

Mr. NUGENT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, again, BOLOs were issued, be on the lookout, if you will, for conservative groups. Conservative groups were systematically denied, for more than 2 years, their approvals. Conservative groups were asked inappropriate and personal questions, things like where do you pray, things like what are your political views, and please show us your donor list, even though that was inappropriate.

The fact that the minority will allude to word searches to see how many of some application was out there is not about the inappropriate targeting and systematically withholding and mistreating of groups. That is what happened. That is what evidence is beginning to show Lois Lerner was at the heart of.

We are here today about contempt for somebody pleading a number of cases of what was right or what they did or didn't do, followed by taking the Fifth, then followed by answering questions having once waived and, thus, essentially waiving her rights.

Now, you can, after the fact, get 39 people to say one thing and somebody else can get 39 to say another. Today, we are trying to move contempt to the court system where an impartial judge can evaluate whether or not Lois Lerner should be ordered back to testify so the American people can know the truth about why she did what she did. What she did was target conservative groups. That is not in doubt. I don't want people using words like ''circus'' in order to confuse people.

Conservatives were targeted; that is clear. Lois Lerner has things to answer. She only answers the part she wants to, including before the Justice

Department but not before the U.S. Congress.

Mr. MCGOVERN. Mr. Speaker, may I ask the gentleman from Florida whether he has any additional speakers or whether the chairman will want to say any more.

Mr. NUGENT. I do not have any additional speakers, but go right ahead.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

This is a circus, and it is really sad that we are here on the floor debating this.

Just for the record, witnesses testified that progressive groups got a multitiered review and that liberal groups like Emerge went through a 2-year process before getting denied.

The other thing you ought to know is that the IRS has begun a path to reform. It has implemented all the inspector general's recommendations, including going above and beyond by eliminating BOLOs altogether.

Mr. Speaker, if this were done in a fair and professional manner, we wouldn't be having this controversy today, but the exact opposite happened in the Committee on Oversight. It was a joke. We all saw it on TV. Enough of this. Enough of this. Let's start doing the people's work.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment that I will offer into the record along with extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MCGOVERN. This is on extending unemployment compensation benefits. It might be nice to do something that might help somebody around here, that might help the American people, instead of doing this witch-hunt, this week of investigations, this week of distraction, when our economy needs our attention, when people need jobs, when people's unemployment needs to be extended.

Mr. Speaker, I urge all my colleagues to vote ''no'' and defeat the previous question. I urge a ''no'' vote on this rule, which is a closed rule, two closed rules. Again, when we do oversight, it ought to be nonpartisan. This has become a partisan joke.

With that, I yield back the balance of my time.

Mr. NUGENT. Mr. Speaker, I yield myself as much time as I may consume.

We have heard a lot today. It should concern the American people of what we have heard in regards to the allegations and the operations within the IRS.

You know, I regret, I really do regret that somehow this turned into a partisan shouting match. Both sides—both sides—are involved in this. I regret it because we have lost sight of the real issue: The IRS constituted a serious violation of public trust.

Mr. Speaker, this goes back to when I was sheriff, and I would sit there and have parents come in and complain about schoolteachers and the police officers that arrested their son or daughter for a violation of law, and they were more concerned about what were perceived as issues—in regards to how they were handled—versus the actual conduct of their child. This is the same thing.

We are blowing smoke all over the place trying to obscure the fact that the IRS—under the direction, we believe, of Lois Lerner, the involvement of her—violated Americans' rights across the board. Talk about McCarthyism. They have done it. They have the power to do it. They have the power to come in. If you remember the questions asked, they asked people about what they believed and what were their conversations, who they talked with. Was it an invasion of privacy? I think so.

The American people—and you have heard this from other speakers today—really need to have their faith restored that this government operates in a very open way, that people can trust government again.

No one should have to worry. No one—Republican, Democrat, Libertarian, or otherwise—should ever have to worry about their political speech having them singled out by the IRS. No one should have to worry about that. No one group should have to worry about the government worrying about their speech and having the ability to counter it in a way that brings officialness to it. How do you do that?

This is true, though, whether you are Republican, Democrat, conservative, liberal, or anything else. The point is we should be alarmed. This is what we are talking about today. We should be alarmed about the conduct of the IRS under the direction of Lois Lerner. We should be worried about that in the future, because that is the biggest single threat to America today is how our own government treats its people, Mr. Speaker. A Federal Government agency used its weight to bully Americans. That is not what America is all about, Mr. Speaker.

Make no mistake, though, that is exactly what happened. The IRS bullied people. We had someone last night testify about constituents in their district that wanted to promote an organization and do something, and they were bullied by the IRS until they finally said: You know what, I give up. I can't take it. I worry about what is going to happen because I know the IRS has the ability to do other things on my personal tax return and call it into question.

This is an extreme disservice to the American public. They really do deserve better. If we are ever going to right this wrong, we have got to find out what happened. We have to understand all the facts. And so my friends across the aisle really don't want to hear the facts. They talk about everything else under the Sun, but they really don't want to talk about what happened.

You know, my good friend talked about this being trivial, doubling down on crazy. Well, I guess that you are talking about my constituents, because my constituents have that concern. They do have the concern because of what they have seen and what has been reported in the media by both the left and right media in regards to the overstepping of Federal investigation—the IRS—on groups.

I heard this called a circus. Well, that is what we are trying to get away from. We are trying to get away from this partisanship, and let's do what we are supposed to do. By appointing a special counsel, we are hoping to take politics out of it, because politics are on both sides of this issue. So to do that, you would appoint someone, a special counsel, to investigate. Let's take away the partisanship.

It is also important that people are held accountable for their actions. Ms. Lerner defied a lawfully issued subpoena, and there ought to be repercussions for that; otherwise, this is just for show. We really have no oversight ability if people just come and say: Oh, I am not going to tell you.

That is not how it works. That is not how it is supposed to work.

This rule brings this question to the floor, not like the Democrats did in 2008. This rule brings everybody to the floor where they can have an open debate and question and vote on what they think is right.

So I urge my colleagues to support this rule and the underlying legislation. We have the ability to get answers, because whether it is a Republican administration or a Democratic administration, the American people need to know that their government is going to be held accountable if they overreach. If they trample on my rights as a citizen, we should have the ability to know who is doing it and why, and there should be some redress.

Today it is really about we don't care. That is what we are hearing. There are all kinds of other issues, but we don't care about this. It doesn't matter that we sent numerous bills over to the Senate—we talk about job creation—that were passed bipartisanly here. The Senate has refused to take any action on that, has refused to bring it up, discuss it, debate it, amend it, and send it back. They have done nothing.

So we have the ability today to get politics out of it. Let a D.C. court make a decision. Let's do the right thing.

I urge all my colleagues to support this rule.

The material previously referred to by Mr. MCGOVERN is as follows:

AN AMENDMENT TO H. RES. 568 OFFERED BY MR. MCGOVERN OF MASSACHUSETTS

Amendment in nature of substitute:

Strike all after the resolved clause and insert:

That immediately upon adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4415) to provide for the extension of certain unemployment benefits, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided among and controlled by the chair and ranking minority member of the Committee on Ways and Means, the chair and ranking minority member of the Committee on Transportation and Infrastructure, and the chair and ranking minority member of the Committee on Education and the Workforce. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 2. Clause 1(c) of rule XIX shall not apply to the consideration of H.R. 4415.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the Democratic minority to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308–311), describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R–Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

The Republican majority may say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: ''Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.''

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: ''Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. NUGENT. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## PROVIDING FOR CONSIDERATION OF H.R. 4438, AMERICAN RESEARCH AND COMPETITIVENESS ACT OF 2014

Mr. COLE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 569 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 569

*Resolved,* That upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4438) to amend the Internal Revenue Code of 1986 to simplify and make permanent the research credit. All points of order against consideration of the bill are waived. The amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any amendment thereto to final passage without intervening motion except: (1) 90 minutes of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit with or without instructions.

POINT OF ORDER

Mr. DANNY K. DAVIS of Illinois. Mr. Speaker, I raise a point of order against H. Res. 569 because the resolution violates section 426(a) of the Congressional Budget Act. The resolution contains a waiver of all points of order against consideration of the bill, which includes a waiver of section 425 of the Congressional Budget Act, which causes a violation of section 426(a).

The SPEAKER pro tempore. The gentleman from Illinois makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

The gentleman has met the threshold burden under the rule, and the gentleman from Illinois and a Member opposed each will control 10 minutes of debate on the question of consideration. Following debate, the Chair will put the question as the statutory means of disposing of the point of order.

The Chair recognizes the gentleman from Illinois.

□ 1330

Mr. DANNY K. DAVIS of Illinois. Mr. Speaker, I raise this point of order not only out of concern for unfunded mandates, but to highlight the failure of Republican House leadership to protect the long-term unemployed, low-income citizens, and others who have lost their jobs through no fault of their own.

I raise this point of order because the bill before us would add $156 billion to the deficit to provide permanent tax breaks for businesses while doing nothing for the 2.6 million Americans living with the constant nightmare of having no job, no food, no money, no lights, no gas, no college tuition money, and no unemployment check.

H.R. 4438 is 15 times the cost of helping the 2.6 million Americans who are looking for jobs that have been shipped overseas, jobs that have been downsized or outsourced, or jobs that simply do not exist. Please tell me, Mr. Speaker: What are they supposed to do?

H.R. 4438 would give $156 billion in tax breaks for businesses but do nothing for the 72,000 additional Americans who lose benefits each and every week. An estimated 74,000 Illinoisans lost benefits on December 28, 2013, with 38,000 of these citizens living in Cook County alone. Forty-two thousand Illinoisans exhausted their benefits in the first 3 months of 2014. H.R. 4438 completely fails these Americans, many of whom stood on the Capitol steps yesterday pleading with Republican leadership to do the right thing. But the heartless response has been and continues to be refusal to help hard-working Americans struggling to provide food, shelter, clothing, and medical care for their families.

Now is not the time to cut, deny, or delay unemployment benefits. Failure to continue emergency unemployment benefits threatens the continuation of our economic recovery, costing over 200,000 greatly-needed jobs. The expiration has already drained almost $5 billion from our national economy in the first quarter of this year. In Illinois alone, this loss of Federal aid means the loss in purchasing power of $23 million each week—money that could be used to support local businesses, buy gasoline, pay utility bills, provide copayments at doctors' offices, clinics, hospitals; purchase groceries, and pay children's graduation fees. Every $1 in unemployment insurance generates $1.63 in economic activity. I say let us practice good economy, let's be reasonable, and let's have a heart. In my State of Illinois, the unemployment rate remains 8.6 percent, and in much of my district it is more than 20 percent. Finding a job is not easy, but people are still trying.

Government leaders have a responsibility to protect our citizens and our country, especially during times of national crisis. Instead of helping Americans who already are hardest hit by the economic crisis—including older Americans, low-income Americans, veterans, and members of minority groups—Republicans prioritize $156 billion in unpaid-for business tax breaks and tell the American people that it is all about fiscal responsibility and deficit reduction.

Mr. Speaker, extending unemployment assistance is a true demonstration of leadership and our national commitment to all Americans, not just the most secure. Refusal to help these citizens is an unacceptable, abject, and mean-spirited approach to leadership.

I urge that we reject this rule and the underlying bill by voting ''no'' on this motion until the Republican leadership puts people first and provides unemployment insurance to the 2.6 million Americans struggling to keep their lights on and gas in their automobiles, to pay rent and mortgages, and to feed their families. I urge that we vote ''no'' on this rule and to the bill.

I yield back the balance of my time.

Mr. COLE. Mr. Speaker, I claim the time in opposition to the point of order in favor of consideration of the resolution.

The SPEAKER pro tempore. The gentleman from Oklahoma is recognized for 10 minutes.

Mr. COLE. Mr. Speaker, the question before the House is should we now proceed and consider House Resolution 569. While the resolution waives all points of order against consideration of the bill, the Committee on Rules is not aware of any violation. In my view, Mr. Speaker, the point of order is merely a dilatory tactic.

In fact, the Joint Committee on Taxation states that ''the bill contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act.''

This legislation makes permanent a simplified research credit that will help open the door for economic growth and give businesses the certainty they need to thrive. This measure has been routinely extended and supported by both parties for many years. In order to allow the House to continue its scheduled business for the day, I urge members to vote ''yes'' on the question of consideration of the resolution.

I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The question is, Will the House now consider the resolution?

The question of consideration was decided in the affirmative.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The gentleman from Oklahoma is recognized for 1 hour.

Mr. COLE. Mr. Speaker for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), my friend, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. COLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE. Mr. Speaker, on Tuesday, the Rules Committee met and reported a rule for consideration of H.R. 4438, a bill that would permanently extend and enhance the research and development tax credit.

The resolution provides a closed rule for consideration of H.R. 4438 and provides for 90 minutes of debate equally divided between the chairman and ranking member of the Committee on Ways and Means. In addition, the rule provides for a motion to recommit.

Mr. Speaker, dozens of so-called temporary tax extensions expired at the end of 2013. Some of them, like the one we will consider under this rule, have long been bipartisan and long been renewed annually.

As a small business owner myself, one of the things that a business craves is certainty, certainty that you can plan around. Providing a certain tax structure is important to businesses.

Take, for example, the R&D tax credit for which this resolution provides consideration. The R&D tax credit has been repeatedly extended since 1981. If it doesn't make you think it is permanent, I don't know what does.

Too often, we here in Washington tell businesses ''trust us,'' that we can promise to extend X, Y, or Z tax provisions indefinitely. But they can't take that to the bank. They can't take our word that we will be able to deliver on promises that we make. The only thing they can rely on is the law itself. If our tax laws expire every year, it injects an uncertainty into the business environment that inhibits economic growth.

We all know that encouraging research and development makes good economic sense. Ernst & Young did a study that found that the R&D credit increases wages in both the short and long term. Additionally, the legislation we will consider also increases research-oriented employment in both the short and the long term.

Many of my friends on the other side talk about raising the minimum wage and about increasing jobs. Those are certainly worthy matters to discuss. Permanent extension of the R&D tax credit does just that. That is why both sides have routinely extended this tax credit in good times and in bad. It is time to make it part of the permanent Tax Code.

Mr. Speaker, others have criticized this legislation because it only deals with a small portion of the expired tax provisions. However, to them I would say two things:

First, just as we have had to examine and pare back the discretionary side of the budget, we need to examine the tax side of the budget. There are over 200 tax expenditures, or spending on the tax side of the ledger, that, if all extended, will cost us more than $12 trillion over the next 10 years. We need to take a serious look at which credit should be extended.

And secondly, this provision is the first of many that will be considered by this House. While the Senate has been content to move in a ''comprehensive manner'' on issues like immigration and even tax extenders, the House has taken a more deliberate approach.

The Ways and Means Committee has marked up seven different extenders affecting a variety of industries that I hope the House will consider in the coming weeks. This will allow us to have a vehicle to take to conference with the Senate to provide individuals and businesses with the certainty that they so desperately crave.

Mr. Speaker, I want to commend Chairman CAMP for beginning this process in earnest and look forward to consideration of additional measures at the appropriate time. Many of my colleagues on both sides of the aisle have supported the extension of the R&D credit because they have seen the value of making this provision permanent.

I urge support of the rule and the underlying legislation, and I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Oklahoma for yielding me the customary 30 minutes.

While I support research and development incentives and consider encouraging American businesses to research, innovate, build, and make it in America some of Congress' most important

duties, I rise today in opposition to this rule and the underlying bill.

Four months ago, my friends on the other side of the aisle allowed emergency unemployment insurance for more than 1.3 million Americans to expire.

During the farm bill negotiations, my friends on the other side of the aisle insisted on cutting $8.6 billion from nutrition assistance programs.

Last week, Republicans on the Ways and Means Committee insisted on removing a $12 million provision that would help foster children who are victims of sex trafficking. I find that ironic because this happens to be Foster Care Month.

They also fought tooth and nail to derail disaster assistance to the victims of Hurricane Sandy, and almost succeeded.

Furthermore, they have triggered a government shutdown and sequestration cuts that have drastically cut nondefense discretionary spending by $294 billion.

And the reason offered for all these austerity measures still hamstringing recovery? Why can't the Republicans pass a bill to create jobs by improving our crumbling infrastructure? Well, deficit reduction, I guess, is the answer.

Yet, this bill, a favorite of Big Business without question, will add $156 billion to the deficit.

Tax policy in general, and then extenders package specifically, is about prioritizing the needs of our country.

Dozens of temporary tax provisions that expired at the end of 2013 and several others scheduled to expire at the end of this year have been skipped over.

They have passed up the chance to renew the work opportunity tax credit, which helps veterans get work, and the new markets tax credit, which helps vitalize communities.

They have chosen to ignore renewable energy tax credits and tax credits to help working parents pay for child care.

They have decided that it is not important to extend deductions for teachers' out-of-pocket expenses, qualified tuition and related expenses, mortgage insurance premiums, and State and local sales tax, a deduction which is critical for our constituents in Florida.

□ 1345

My friends on the other side of the aisle would allow charitable provisions, including the enhanced deduction for contributions of food inventory and provisions allowing for tax-free distributions from retirement accounts for charitable purposes to expire rather than renew them.

This bill today and the other extenders—there were six of them that were marked up by the Ways and Means Committee—are the six extenders favored by Big Business.

That is why these will be the first and will likely be the only of the extenders—and there are 50-plus of them overall—that the House will vote on. That is why these are the measures my friends want to make permanent.

While I agree particularly that the one that is being discussed should be made permanent, they have no problem increasing the deficit, so long as it is a policy that is a priority for them and for Big Business.

I reserve the balance of my time.

Mr. COLE. Mr. Speaker, I yield myself such time as I may consume.

I want to begin, actually, by agreeing on a couple of points with my friend from Florida.

Sandy, if you will recall—and I know you do. I actually voted with you. I believe that relief should have been rendered. I am glad we did that, and it was done in a bipartisan fashion; so certainly, where I am concerned, my friend knows that I have been consistent on that point.

I also want to agree that there are a lot of extenders in this package that ought to be considered. As my friend knows, I actually raised one of those last night in an amendment at the Rules Committee—and it was withdrawn—simply to make the very point that he is making, that we shouldn't only focus on a few, but that all of these need to be considered, and each of them ought to have an opportunity to be looked at and discussed.

I think Ways and Means owes us a pathway, if you will. I have no objection to what they are doing here today, but I do think we all need to understand what is going to be considered.

In my view, all of these, since we have routinely extended them in the past, probably ought to be considered in one fashion or another. I suspect, frankly, they will be because, once we arrive in the conference committee, the Senate will probably have passed that in total, and there will be some sort of discussion there. Again, my friend's point is an important one with which I agree, in that we ought to look at these things.

The reason we are beginning with this one—and with a series of five or six others is—number one, these are ones that both parties have generally agreed upon in the past. This is not a controversial measure. When they were in the majority in 2008 and in 2010, my friends extended this particular tax credit, along with many others, so we don't think it is controversial in the partisan sense.

Secondly, we think these are the types of tax cuts that broadly contribute to growth, and that is something I know both sides want. We want a growing economy, we want the jobs that that generates, and frankly, we want the additional tax revenue that a growing economy yields.

We have made some very tough decisions over the last few years, sometimes on a bipartisan basis, about reducing this deficit. When this majority came in, the deficit was running at about $1.4 trillion a year. This year, it will come in at something like $540 billion.

That is actually a very rapid decline. Along the way, some of those decisions have been pretty tough decisions—bipartisan, some of them. We, on our side, like to focus on the cuts we have made, and as my friend has pointed out, we have cut out literally hundreds of billions of dollars of discretionary spending.

None of that has been easy—again, sometimes on a bipartisan basis. Eventually, it had to pass a Democratic Senate and be signed by a Democratic President, so in a sense, those reductions had been bipartisan.

We have also generated revenue. The fiscal cliff bill, which I supported, preserved most of the Bush tax cuts, but it did generate revenue. Those things working together have helped bring the deficit down, but we are never going to get the deficit where I know both sides want it to be, if we don't have an economy that is growing and moving, creating jobs, innovating, is at the cutting edge, and is competitive with our international peers. This legislation is an attempt to do just that.

It is also an attempt, in my view, by Ways and Means and by Chairman CAMP to begin the process of looking at these tax extenders one by one. While all of them have some constituency in this body and while many of them have overwhelming bipartisan constituencies, there is no question that not every single one of them would pass muster if it were looked at individually, so I applaud Chairman CAMP and his committee for what they are doing.

I think we are trying to proceed in the right direction here. I don't have any illusions that this will be the final legislation. It will simply get us into conference with the Senate; and, hopefully, there will be more discussion there, but I think we are doing the right thing and are proceeding in the right way.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan (Mr. LEVIN), my friend, who is the ranking member of the House Ways and Means Committee.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, this is really not about the R&D tax credit. I have favored it. I continue to favor it. Democrats, indeed, are in favor of tax incentives. Sometimes, we are criticized for that, but that is not the issue here.

It is whether we make this permanent without paying for it. It is fiscally irresponsible to do so, and it endangers key programs that matter for all Americans, and that is why the veto message from the President.

Why fiscally irresponsible? It is unpaid for, costing, over 10 years, $156 billion. As you said, the gentleman from

Oklahoma, it is part of a package, the total of which would be $310 billion; and if you add the others referred to, the package could be $500 billion, more or less—a huge sum—unpaid for. The $310 billion that is represented by this package is more than one half of the projected deficit this year.

So it is not only fiscally irresponsible, it is also hypocritical. It violates the Republican budget itself that requires extenders to be paid for, if permanent, with other revenue measures.

Here is what the chairman of the Budget Committee said last month:

> Our debt has grown more than twice the size of our economy. You can't have a prosperous society with that kind of debt.

Mr. BRADY, who, I guess, will be speaking on this, said last month:

> Americans have had it with Washington's fiscal irresponsibility, and I don't blame them. While families across the Nation continue to tighten their belts due to rising costs and shrinking paychecks, Washington continues to spend more than it takes in.

In 2009, the chairman of the Ways and Means Committee said:

> The path to our economic recovery starts with fiscal responsibility in Washington.

Interestingly enough, the tax reform draft presented by the chairman makes R&D and some of the other extenders permanent, but without impacting the deficit. It is revenue neutral—it is paid for—and now, you come here and not pay for it.

This doesn't even include other key extenders, like the new markets; like the work opportunity tax credit as you referred to, Mr. HASTINGS, on veterans; renewable energy.

It leaves in jeopardy some key provisions that expire in 2017—the EITC, 27 million people affected; the child tax credit, 24 million; the American opportunity tax credit—education—12 million. The $310 billion is three times the amount spent on education, job training, social services in a full year. Nondefense discretionary is now just about 3 percent of GDP, as low as it has been in decades.

Any permanent R&D has to be done comprehensively, not piecemeal and unpaid for. To do it this way is fiscally irresponsible. I think it is hypocritical and is programmatically dangerous.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HASTINGS of Florida. I yield the gentleman an additional 30 seconds.

Mr. LEVIN. So I oppose this rule, and I hope everybody who is thinking of voting ''yes,'' including on the Republican side, will think back on what they have said before about the deficit.

I hope we Democrats will think we are for this incentive R&D. It needs to be done comprehensively, not piecemeal—threatening so many of the programs that benefit so many Americans.

Mr. COLE. Mr. Speaker, I yield myself such time as I may consume.

I want to agree with my friend about his concern on the deficit. I know it is genuine. Frankly, I appreciate the fact that our friends on the other side of the aisle are concerned about the deficit.

I will remind them, when we took the majority in this Chamber in January of 2011, the deficit was about $1.4 trillion. It is about $540 billion today. So to suggest that this majority has not been serious about lowering the deficit and has not made really tough decisions—sometimes with my friends on the other side of the aisle, sometimes not—I think is to misstate the facts.

We are concerned about the deficit. If renewing this R&D credit is irresponsible without an offset, I will point out to my friends that you did it in 2008 and in 2010 when you were in the majority, so I don't think you are being consistent here in terms of this particular measure.

Finally, I want to make the point that the real key to getting out of this situation in the long term is threefold. First, obviously restraining domestic discretionary spending, we have done that, and it has been hard to do. Second, I think getting entitlement reform, we haven't done that. Hopefully, someday, we will.

Third—and maybe most importantly—is getting the economy growing again, moving in a way that creates jobs first and foremost, that provides a higher standard of living for our people, but that, yes, generates extra revenue to the government. There is nothing like a growing economy to help shrink the deficit.

This is a measure that both sides in the past have agreed actually stimulates economic growth; creates jobs; and, therefore, generates additional revenue. I think that we ought to approve the rule and that we ought to consider this thoughtful consideration of our Tax Code on a piece by piece, item by item basis and move ahead.

With that, Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, I yield 4 minutes to the distinguished gentleman from Texas (Mr. DOGGETT), my good friend.

Mr. DOGGETT. Madam Speaker, I support a permanent research and development credit to incentivize research for new products.

For decades, there has never really been any question about whether we should incentivize research. The question has been how—how to pay for that incentive and how to ensure that it actually encourages more jobs and more economic development with desirable research that would not otherwise happen without the credit.

Until today, Republicans who claimed to be for fiscal responsibility before they were against it have not been so brash as to demand that we finance this entire research credit on a permanent basis and similar legislation by borrowing more money.

A Government Accountability Office investigation of this credit concluded that a few corporations snatched most of the credit and that ''a substantial portion of credit dollars is a windfall, earned for spending what they would have spent anyway, instead of being used to support potentially beneficial new research.''

This credit is just another type of special treatment that a few giant multinationals can count on to lower their already low tax rates.

Last month, The Wall Street Journal reported the complaints of one giant. It said that, without this credit, its tax rate would climb effectively from 16 percent all the way to 18 percent.

Another corporation complained that its rate would go from 13 percent to 19 percent. Most of the small businesses that I represent in my part of Texas would be delighted to have a rate at that level. They pay substantially more.

□ 1400

Multinationals can use this taxpayer subsidy to finance research that produces patents and copyrights and the like that are then owned by offshore tax haven subsidiaries that pay little or no taxes.

One company investigated by Senator LEVIN in the Senate last year did 95 percent of its research and development right here in America, but then it shifted $74 billion of its earnings to an Irish subsidiary.

Apparently, the most effective multinational research anywhere in the world has focused on how to avoid paying for their fair share of financing our national security.

These are companies that ship both jobs and profits overseas. They are not about making it in America. They are about taking it from America. And that shifts the burden to small businesses and individuals.

Nor is all of this taxpayer-subsidized research beneficial to the public. For example, some of the research that was done for the electronic cigarettes, the latest fad to addict our children to nicotine, qualified for this tax subsidy.

Meanwhile, the House Republican budget undermines vital private research that is funded through the National Institutes of Health for Alzheimer's, for cancer, for Parkinson's, and for other dread diseases. They say we cannot afford to do what is necessary in research for those.

They also cut research for efforts to ensure that taxpayers get their money's worth from our investment in public services. Without adequate research, you cannot determine whether an initiative that is proposed justifies Federal dollars or is truly evidence-based.

I think we should reject today's proposal in favor of a research credit that actually incentivizes necessary research made in America and which is paid for, in part, by comprehensive reform of the credit itself.

As for comprehensive reform, from day one of this Congress, H.R. 1 was reserved for the much-ballyhooed Republican comprehensive tax reform. And yet we are well through this Congress

and it still says, ''Reserved for Speaker.''

That is because the Republicans couldn't agree on which tax loophole to close to maintain a revenue-neutral—a not borrowing more money—and as a result of not being able to do what they said they would do——

The SPEAKER pro tempore (Mrs. BLACK). The time of the gentleman has expired.

Mr. HASTINGS of Florida. I yield the gentleman an additional 1 minute.

Mr. DOGGETT. Because they told us January of last year they would be here with a simpler, fairer, lower tax rate, but they can't agree on how to pay for it because they are dominated by lobby groups that want to protect the very complexities and loopholes that plague this tax system—because they couldn't do that and have not done that, they are now back, as the gentleman says, with the first of not one or two but of many provisions to make them permanent, and pay for it with either borrowed money or mandatory cuts.

I think that is a serious mistake.

Today's bill represents only the first installment of more tax breaks to come that are not paid for or are paid for with mandatory cuts. Surely, we don't need more research today to know that that is the wrong way to go, it is the irresponsible way to go, and it ought to be rejected.

Mr. COLE. Madam Speaker, I yield myself such time as I may consume.

I hate to keep repeating myself, but I think I will.

My friends passed this tax credit themselves when they were in the majority in 2008 and 2010. So while I appreciate this newfound concern about deficits on their side of the aisle, I remind them that since we have been in the majority, the deficit has actually declined—and declined pretty dramatically—from $1.4 trillion, which is what they handed over to us, to about $540 billion today.

I would be the first to agree that is far too high, but the movement has been in the right direction.

So to suggest that somehow this side of the aisle has been fiscally reckless or irresponsible, I think simply doesn't bear up to scrutiny.

Second, I remind my friends again this has been a bipartisan tax measure over the years. It has been routinely renewed, whether it was a Democratic Congress or Republican Congress, since 1981. It is as close as you ever get to be permanently in the Tax Code without actually being there.

But we still have that level of uncertainty that is associated every time that we have a discussion over the extension. We are simply removing, I think, that uncertainty, and we are doing what all sides have done regularly, which is recognize this is an important component of our Code and that we think it generates a great deal in terms of valuable research and generates economic growth and jobs.

I would agree with my friend that we are going to have to do different things to actually get the deficit down to where we want to go.

I serve on the Appropriations Committee, not on Ways and Means, and I will tell you we have really made dramatic cuts in the discretionary budget, some of which I think are actually too extensive. We have done that in an effort to try and, again, restore fiscal sanity.

I have cooperated with my friends on things like the fiscal cliff that have generated revenue. So it hasn't just all been cuts.

I do agree with my friends that Ways and Means needs to do two things: it is responsible for taxes and it is responsible for entitlements.

We all know that entitlement spending is the largest single driver of the deficit, by far. I would hope our friends, on a bipartisan basis, would sit down and start looking at entitlements on the Ways and Means Committee.

In terms of taxes, I think that is exactly what they are trying to do in this measure; that is, begin to look at this piece by piece and pick out the things that are worth keeping.

This credit, without question, both sides for over 30 years looked at and said, This is worth keeping. This is valuable. It generates jobs. It generates growth.

If my friends on Ways and Means want to look at this and tinker and change it around the edges, they are the tax experts. I trust them to bring us something here that is good. But remember, this bill is going to conference. There is a United States Senate that probably has a different view than us. It is going to sit down and negotiate with us. Then the bill has to go to the President.

So I look on this as a step in the right direction, not as a final destination point, let alone as some sort of dramatic departure from what we have been doing around here. It is actually pretty consistent with what we have been doing in terms of the policy.

What we are doing is making important correctives, turning what has been temporary into something that is permanent. And we are doing it piece by piece. Because, again, not all of these extenders, quite frankly, should be extended, but we ought to look at them one at a time and make that decision. I really think that is all we are about, Madam Speaker.

With that, I would again hope that we pass the rule and the underlying legislation.

I reserve the balance of my time.

Mr. HASTINGS of Florida. Madam Speaker, the American people will be better served if we addressed our broken immigration system, which has become a huge drag on our country's economic growth.

If we defeat the previous question, I will offer an amendment to the rule to bring up H.R. 15, the Border Security, Economic Opportunity, and Immigration Modernization Act, so the House can finally vote on something that will move this country forward.

To discuss our proposal, I am pleased to yield 2 minutes to the distinguished gentleman from California (Mr. CÁRDENAS).

Mr. CÁRDENAS. I thank my distinguished colleague from Florida.

Today, we are debating research and development in the United States. However, what we are actually doing is creating more funding for research and development while ignoring hundreds of thousands of the best and brightest researchers in our Nation—students who will come out of our research universities and immediately get sent home to another country. They will build economies overseas while we fall behind here in the United States. This is because of our broken immigration system.

Yesterday, I offered a very relevant amendment in the Rules Committee to complete the underlying bill. This amendment would pay for the tax credits and pass comprehensive immigration reform at the same time. By doing this, we would massively improve research and development in this country, unleashing the talents of our students, turning them into job-creating workers right here in the United States, which will support our U.S. economy.

Everyone agrees that we must support innovation through research and development. However, we must make sure that our businesses have the researchers to do that job.

Last month, we saw the annual H–1B visa cap reached in only 5 days.

Again, our outdated immigration laws put American innovation on hold. Imagine how the U.S. economy would grow and how many Americans jobs would be created if we didn't send away more than half of the Ph.D.'s graduating with STEM degrees right here in our U.S. universities simply because they were foreign born.

This amendment is the best way to pay for these tax credits and to expand research and development by creating jobs, raising revenue, and supercharging our local U.S. economy.

We must pass comprehensive immigration reform to continue leading the world in research. Because of a failure to consider this valid—and valuable—offset, I urge a ''no'' vote on the rule.

Mr. COLE. Madam Speaker, I yield myself such time as I may consume.

I want to disagree with my good friend from Florida on one thing, and I think it is probably just a phrase, but I want to put an important corrective in the RECORD.

My friend said we could finally vote on something that would be worthwhile. I would actually suggest that we voted on a number of things that have been worthwhile.

Frankly, this would have been in December, but the Ryan-Murray budget agreement, I think, was very worthwhile. I think that the omnibus spending bill that finally put us back into

some semblance of regular order in the appropriations process was worthwhile.

I think the farm bill that was passed as both a safety net program for many of our needy families in our country, as well as an important economic tool that my friend Mr. LUCAS got through on a bipartisan basis, was, again, very worthwhile.

I think the flood insurance bill that this Congress has passed on a bipartisan basis was, again, very worthwhile.

I think the fact that we have dealt with the doc fix, as there has actually been in Ways and Means an agreement as to what we should do—not an agreement on how to fund it, but we bought a year's worth of time so our health care providers that do such a great job helping and seniors and our needy people on both Medicare and Medicaid are going to be continued to be reimbursed—I think that is a good job.

I think this Congress doing the Gabriella Miller Kids First Research bill, taking money out of political conventions and putting it toward pediatric research, that is a pretty good job.

I think the fact that a couple of appropriations bills have actually crossed this floor on a bipartisan basis and are ready to go to conference earlier than any time since 1974 is a pretty good job.

So while we disagree—and I wouldn't say this is the most productive Congress in modern American history—to suggest that it is not doing its job and moving along legislation expeditiously is something I do have at least a different view on.

I want to agree with my friend from California on H–1B visas. I actually think he is correct about that. As I understand it, there has been action on that issue in the Judiciary Committee. It actually passed out of committee. When it comes to the floor is sort of not in my lane, but I do hope we do deal with that.

And no question, the whole immigration issue that my friend brings up is an important one. I appreciate him doing that. I thanked him for doing that last night. I thank him for doing it again today.

I don't think this is probably the vehicle for a comprehensive bill. I think it would probably meet more resistance. But talking about it and pointing out the importance of dealing with some of these issues I think is extremely helpful.

It doesn't change the basic fact, though, Madam Speaker. What we are dealing with here is pretty simple, but pretty important, though. Let's do something that in the past we have agreed on on a bipartisan basis. Let's focus on research and development so America is always at the cutting edge of technology and job creation and give our entrepreneurs and our businesses this very important tool and a sense of certainty that it is going to be there.

Again, this is something we have been doing since 1981. It is not new. It has been bipartisan. I think making it permanent, letting businesses know that we can actually work together, is the right thing to do.

Then we ought to proceed, as the Ways and Means Committee is proceeding, systematically and look at all these other extenders, some of which will make it, some of which won't. We will undoubtedly have a vigorous debate about that.

It won't always be a partisan debate. I suspect on some of these things I will be with my friends on their side of the aisle and vice versa because things like the Indian Lands Tax Credit I don't consider partisan. It gets very good Democratic and Republican support all the time.

So, again, let's work together. I think that is what Ways and Means is trying to do. They are advancing a product systematically and appropriately.

I think we have the right rule for it. I think we have a good piece of legislation. I suspect and certainly hope there will be a strong bipartisan vote on the underlying legislation.

With that, I reserve the balance of my time.

□ 1415

Mr. HASTINGS of Florida. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I am going to take my good friend's point where I made the statement that we would have an opportunity to finally vote on something worthwhile and take that ''finally'' out and replace it with ''something more worthwhile'' than some of the things that he pointed out that I certainly agree with, in many particulars, were certainly measures that were important to us.

I can't resist adding to Mr. CÁRDENAS' appeal with reference to H.R. 15 and point out that 40 percent of the Fortune 500 companies were founded by an immigrant or a child of an immigrant. Twenty-eight percent of all companies founded in the United States, in just the year 2011, had immigrant founders.

Seventy-six percent of the patents at the top 10 U.S. patent-producing universities had at least one foreign-born inventor. Immigrant-owned businesses generated more than $775 billion in revenue for the economy in 2011.

I could go on and on. I shall not. It is important, I believe, that if not this vehicle, some vehicle become the one that allows us to deal with things like the H–1B visa. For example, when we put the cap on it in the last tranche, we achieved that cap in 5 days.

Availability of H–1B numbers is a growing problem for the U.S. STEM competitiveness again. It is something that we need to deal with, must deal with.

Now, I turn, finally, to the research credit measure that we are dealing with. It is an important provision that should be extended. Since its enactment in mid-1981, as has been pointed out by my colleagues, Congress has extended the provision 15 times and significantly modified it five times.

However, it is not just what we do that matters; it is how we do it that also matters. This will be the 57th closed rule, which means most Members will not even get a chance to make changes to the bill.

This bill violates the revenue floor of the Ryan budget that Republicans passed only 3 weeks ago, meaning the Rules Committee will have to give yet another special waiver.

Republicans have waived their own CutGo rule 15 times since taking over the House. Republicans insist that comprehensive tax reform be deficit neutral, but won't hold these permanent changes to the same standard. In fact, they are using these measures to hide the cost of comprehensive tax reform.

They aren't just moving the goalposts. They are changing the game as it is being played.

Madam Speaker, there is something inconsistent between what my friends say and what they do, and I find that very disturbing. Hiding behind a mantra of austerity only when it is convenient is, in my view, irresponsible and opportunistic, at best.

Madam Speaker, I ask unanimous consent to insert the text of the amendment in the RECORD, along with extraneous material, immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Madam Speaker, I urge my colleagues to vote ''no'' and defeat the previous question. I urge a ''no'' vote on the rule.

I am very pleased at this time to yield back the balance of my time.

Mr. COLE. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I want to thank my friend from Florida. It is always a pleasure to appear with him.

I do want to make a point that, with respect to all tax provisions, they almost always do come to this floor under a closed rule because, quite frankly, they have to be scored, i.e., we have to figure out how much the amendments cost and what have you.

So it is very seldom we have an open rule on anything that deals with tax policy, and I think we are following customary procedure here.

I also, again, want to make the basic point that this is legislation that, honestly, I think, over the years, most of the time, both sides of the aisle have agreed upon.

There is no objection to research and tax credits. Both sides have decided it is good policy, that it helps American companies be competitive. It helps us stay at the head of the pack, in terms of innovation and technical development in this country.

This is probably one of the least controversial provisions in the Tax Code, so I think moving it and making it permanent, removing all uncertainty and confusion, is probably, well, in my view, certainly a good thing for our economy. I hope, after the rule vote, that we can come together on that.

Madam Speaker, in closing, I would like to encourage my colleagues to move the process forward. This approach is important because it allows the House to consider individual tax provisions on their own merits and not hidden by a larger deal.

This credit is good for economic growth. It both creates jobs and increases wages. It is important that we not lose sight of that in the midst of this debate, so I would urge my colleagues to support this rule and the underlying legislation.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

AN AMENDMENT TO H. RES. 569 OFFERED BY MR. HASTINGS OF FLORIDA

At the end of the resolution, add the following new sections:

SEC. 2. Immediately upon adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 15) to provide for comprehensive immigration reform and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. All points of order against provisions in the bill are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the bill.

SEC. 3. Clause 1(c) of rule XIX shall not apply to the consideration of H.R. 15.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the Democratic minority to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308–311), describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

The Republican majority may say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: ''Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.''

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: ''Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. COLE. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

## COMMISSION TO STUDY THE POTENTIAL CREATION OF A NATIONAL WOMEN'S HISTORY MUSEUM ACT

Mrs. LUMMIS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 863) to establish the Commission to Study the Potential Creation of a National Women's History Museum, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 863

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Commission to Study the Potential Creation of a National Women's History Museum Act''.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Commission to Study the Potential Creation of a National Women's History Museum established by section 3(a).

(2) MUSEUM.—The term ''Museum'' means the National Women's History Museum.

**SEC. 3. ESTABLISHMENT OF COMMISSION.**

(a) IN GENERAL.—There is established the Commission to Study the Potential Creation of a National Women's History Museum.

(b) MEMBERSHIP.—The Commission shall be composed of 8 members, of whom—

(1) 2 members shall be appointed by the majority leader of the Senate;

(2) 2 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(c) QUALIFICATIONS.—Members of the Commission shall be appointed to the Commission from among individuals, or representatives of institutions or entities, who possess—

(1)(A) a demonstrated commitment to the research, study, or promotion of women's history, art, political or economic status, or culture; and

(B)(i) expertise in museum administration;

(ii) expertise in fundraising for nonprofit or cultural institutions;

(iii) experience in the study and teaching of women's history;

(iv) experience in studying the issue of the representation of women in art, life, history, and culture at the Smithsonian Institution; or

(v) extensive experience in public or elected service;

(2) experience in the administration of, or the planning for, the establishment of, museums; or

(3) experience in the planning, design, or construction of museum facilities.

(d) PROHIBITION.—No employee of the Federal Government may serve as a member of the Commission.

(e) DEADLINE FOR INITIAL APPOINTMENT.—The initial members of the Commission shall

be appointed not later than the date that is 90 days after the date of enactment of this Act.

(f) VACANCIES.—A vacancy in the Commission—

(1) shall not affect the powers of the Commission; and

(2) shall be filled in the same manner as the original appointment was made.

(g) CHAIRPERSON.—The Commission shall, by majority vote of all of the members, select 1 member of the Commission to serve as the Chairperson of the Commission.

**SEC. 4. DUTIES OF THE COMMISSION.**

(a) REPORTS.—

(1) PLAN OF ACTION.—The Commission shall submit to the President and Congress a report containing the recommendations of the Commission with respect to a plan of action for the establishment and maintenance of a National Women's History Museum in Washington, DC.

(2) REPORT ON ISSUES.—The Commission shall submit to the President and Congress a report that addresses the following issues:

(A) The availability and cost of collections to be acquired and housed in the Museum.

(B) The impact of the Museum on regional women history-related museums.

(C) Potential locations for the Museum in Washington, DC, and its environs.

(D) Whether the Museum should be part of the Smithsonian Institution.

(E) The governance and organizational structure from which the Museum should operate.

(F) Best practices for engaging women in the development and design of the Museum.

(G) The cost of constructing, operating, and maintaining the Museum.

(3) DEADLINE.—The reports required under paragraphs (1) and (2) shall be submitted not later than the date that is 18 months after the date of the first meeting of the Commission.

(b) FUNDRAISING PLAN.—

(1) IN GENERAL.—The Commission shall develop a fundraising plan to support the establishment, operation, and maintenance of the Museum through contributions from the public.

(2) CONSIDERATIONS.—In developing the fundraising plan under paragraph (1), the Commission shall consider—

(A) the role of the National Women's History Museum (a nonprofit, educational organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that was incorporated in 1996 in Washington, DC, and dedicated for the purpose of establishing a women's history museum) in raising funds for the construction of the Museum; and

(B) issues relating to funding the operations and maintenance of the Museum in perpetuity without reliance on appropriations of Federal funds.

(3) INDEPENDENT REVIEW.—The Commission shall obtain an independent review of the viability of the plan developed under paragraph (1) and such review shall include an analysis as to whether the plan is likely to achieve the level of resources necessary to fund the construction of the Museum and the operations and maintenance of the Museum in perpetuity without reliance on appropriations of Federal funds.

(4) SUBMISSION.—The Commission shall submit the plan developed under paragraph (1) and the review conducted under paragraph (3) to the Committees on Transportation and Infrastructure, House Administration, Natural Resources, and Appropriations of the House of Representatives and the Committees on Rules and Administration, Energy and Natural Resources, and Appropriations of the Senate.

(c) LEGISLATION TO CARRY OUT PLAN OF ACTION.—Based on the recommendations contained in the report submitted under paragraphs (1) and (2) of subsection (a), the Commission shall submit for consideration to the Committees on Transportation and Infrastructure, House Administration, Natural Resources, and Appropriations of the House of Representatives and the Committees on Rules and Administration, Energy and Natural Resources, and Appropriations of the Senate recommendations for a legislative plan of action to establish and construct the Museum.

(d) NATIONAL CONFERENCE.—Not later than 18 months after the date on which the initial members of the Commission are appointed under section 3, the Commission may, in carrying out the duties of the Commission under this section, convene a national conference relating to the Museum, to be comprised of individuals committed to the advancement of the life, art, history, and culture of women.

**SEC. 5. DIRECTOR AND STAFF OF COMMISSION.**

(a) DIRECTOR AND STAFF.—

(1) IN GENERAL.—The Commission may employ and compensate an executive director and any other additional personnel that are necessary to enable the Commission to perform the duties of the Commission.

(2) RATES OF PAY.—Rates of pay for persons employed under paragraph (1) shall be consistent with the rates of pay allowed for employees of a temporary organization under section 3161 of title 5, United States Code.

(b) NOT FEDERAL EMPLOYMENT.—Any individual employed under this Act shall not be considered a Federal employee for the purpose of any law governing Federal employment.

(c) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Subject to paragraph (2), on request of the Commission, the head of a Federal agency may provide technical assistance to the Commission.

(2) PROHIBITION.—No Federal employees may be detailed to the Commission.

**SEC. 6. ADMINISTRATIVE PROVISIONS.**

(a) COMPENSATION.—

(1) IN GENERAL.—A member of the Commission—

(A) shall not be considered to be a Federal employee for any purpose by reason of service on the Commission; and

(B) shall serve without pay.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed a per diem allowance for travel expenses, at rates consistent with those authorized under subchapter I of chapter 57 of title 5, United States Code.

(b) GIFTS, BEQUESTS, DEVISES.—The Commission may solicit, accept, use, and dispose of gifts, bequests, or devises of money, services, or real or personal property for the purpose of aiding or facilitating the work of the Commission.

(c) FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

**SEC. 7. TERMINATION.**

The Commission shall terminate on the date that is 30 days after the date on which the final versions of the reports required under section 4(a) are submitted.

**SEC. 8. FUNDING.**

(a) IN GENERAL.—The Commission shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the Commission.

(b) PROHIBITION.—No Federal funds may be obligated to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wyoming (Mrs. LUMMIS) and the gentlewoman from New York (Mrs. CAROLYN B. MALONEY) each will control 20 minutes.

The Chair recognizes the gentlewoman from Wyoming.

GENERAL LEAVE

Mrs. LUMMIS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wyoming?

There was no objection.

Mrs. LUMMIS. Madam Speaker, I yield myself such time as I may consume.

H.R. 863 establishes a commission to study the potential creation of a National Women's History Museum.

The commission will prepare a report with key findings that include an evaluation of potential locations for the museum in Washington, D.C.; guidance on whether it should be part of the Smithsonian Institution; and cost estimates for constructing, operating, and maintaining the facility.

In terms of fiscal responsibility, H.R. 863 requires an independent review of the report to analyze the ability of the museum to operate without taxpayer funding.

With the information generated by the report, Congress will be able to evaluate the proposed museum. This legislation does not authorize the museum to be built or authorize spending of taxpayer dollars of any kind.

Madam Speaker, I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, the National Women's History Museum has a rightful place in our Nation's Capital, and it is very appropriate that we are considering this legislation the week of Mothers' Day.

I believe we should all be able to agree that, when our children and their children visit our Nation's Capital, they should be inspired by the stories of the men and women who helped shape this country. Sadly, today, that is not the case.

Women's contributions to our country are largely missing from our national museums, memorials, statues, and textbooks. The bill before us today seeks to finally change that.

It would be the first National Women's History Museum in Washington and the first in the United States of Americas and, I believe, the first in the entire world that would chronicle the important contributions of American women to America.

H.R. 863 would create a bipartisan, eight-person commission to develop a plan and recommendations for a National Women's History Museum in our Nation's Capital.

The commission, which would be funded entirely with private donations, would have 18 months to submit its

recommendations to Congress and the President.

Congress will then have to consider these recommendations, and a second bill would be needed to support the establishment of a women's museum, so the bill before us enables a commission to study this and for Congress, then, to react to their proposals.

Now, I would like to stress that this has been a very strong, bipartisan effort. I am proud to have worked on this bill with Congresswoman MARSHA BLACKBURN, who has been a wonderful partner and has done so much to get us where we are today. She has been outstanding.

Delegate ELEANOR HOLMES NORTON has been a great champion of this effort for years, along with Congresswoman CYNTHIA LUMMIS and many, many other Members from both parties whose support has been absolutely essential.

I would like to thank Speaker BOEHNER, Democratic Leader PELOSI, Majority Leader CANTOR, and Democratic Whip STENY HOYER for their support as well.

Thank you to the leadership and members of the House Administration and Natural Resources Committee for ushering this legislation through their committees with unanimous support, Congressmen BRADY and MILLER and Congressmen DEFAZIO and HASTINGS.

We are all working on this together because we believe that ensuring our country's full story is told, not just half of it, is part of our patriotic responsibility that rises above party lines, and we are working hard to make sure that this is a bill that can be supported by Members of both parties.

As I mentioned, no public funds would be used to support this commission, and the commission is required to consider a plan for the museum to be constructed and operated by private funds only. No taxpayer dollars will be involved.

Most importantly, neither this bill nor the commission it would create would set the content of this museum. That part will come later, after Congress acts on the commission's recommendations and the museum is finally established.

One could imagine a museum featuring original women thinkers ranging from Ayn Rand, who authored ''Atlas Shrugged,'' to Mary Whiton Calkins. Ms. Rand, I suspect you may know about her, but you may not have heard of Ms. Calkins.

She was born in 1863 and studied at Harvard, under the influential American philosopher, William James, who believed her Ph.D. to be the most brilliant examination for a Ph.D. that he had ever seen; but Mary was not granted a degree because, at that time, Harvard had a policy against conferring degrees on women.

Despite the setback, she went on to become a charter member of the American Philosophical Association and the first woman president of the American Psychological Association.

□ 1430

But most people have never heard of her or her accomplishments because when the story of America has been told, the story of many remarkable women has all too often been left out.

Currently in the Nation's Capital and near The Mall or on The Mall, there is an Air and Space Museum, a Spy Museum, a Textile Museum, a National Postal Museum, even a Crime and Punishment Museum and a media museum. These are all wonderful, enriching institutions that are destinations for millions of visitors every year. But there is no museum in the country that shows the full scope of the history of the amazing, brilliant, courageous, innovative, and sometimes defiant women who have helped to shape our history and make this country what it is.

Even though women make up 50 percent of the population, a survey of 18 history textbooks found that only 10 percent of the individuals identified in the texts were women; less than 5 percent of the 2,400 National Historic Landmarks chronicle the achievements of women; and of the 210 statues in the United States Capitol, only nine are of female leaders.

As an example, while nearly every high school student learns about the midnight ride of Paul Revere, how many of them learn about Sybil Ludington? She is the 16-year-old whose midnight ride to send word to her father's troops that the British were coming was longer than Paul Revere's, just as important, and, in many ways, was even more remarkable. But her ride has been long forgotten.

On display in our Capitol Rotunda is a statue of three courageous women who fought so hard for women to gain the right to vote. And it is my hope that in 2020, on the 100th anniversary of women gaining the right to vote, that we will open the doors to this important museum.

I urge the passage of this long overdue legislation, and I reserve the balance of my time.

Mrs. LUMMIS. Madam Speaker, I yield 5 minutes to the gentlewoman from Minnesota (Mrs. BACHMANN).

Mrs. BACHMANN. I thank my wonderful colleague from the State of Wyoming.

Madam Speaker, I would like to stipulate, first of all, that all Republican women are pro-women and that all Republican men that serve in this Congress are pro-women, as are the Democrat women and the Democrat men in this Congress.

A ''no'' vote on the current legislation, which I advocate for, very simply, is a vote to stand up for the pro-life movement, a vote to stand up for traditional marriage, and a vote to stand up for the traditional family.

There already are 20 women's museums in the United States, including one affiliated with the Smithsonian Museum and including one right next to the United States Capitol. So why would we be building another?

I rise today in opposition to this bill because I believe, ultimately, this museum that would be built on The National Mall, on Federal land, will enshrine the radical feminist movement that stands against the pro-life movement, the pro-family movement, and the pro-traditional marriage movement.

The idea of celebrating women is admirable. It is shared by everyone in this Chamber. No one disputes that. And a few of the museum's proposed exhibits are worthy. No one disputes that.

I, for one, am honored to be featured in an online exhibit about motherhood that highlights our 23 foster children and our five biological children.

However, I am deeply concerned that any worthy exhibits are clearly the exception and not the rule. A cursory view of the overall content already listed on the Web site shows an overwhelming bias toward women who embrace liberal ideology, radical feminism, and it fails to paint an accurate picture of the lives and actions of American women throughout our history.

The most troubling example is the museum's glowing review of the woman who embraced the eugenics movement in the United States, Margaret Sanger. She is an abortion trailblazer, and she is the founder of Planned Parenthood, which this body has sought to defund. Yet the museum glosses over Margaret Sanger's avid support for sterilization of women and abortion and for the elimination of chosen ethnic groups, particularly African Americans, and classes of people. I find Margaret Sanger's views highly offensive, yet she is featured over and over again as a woman to extoll on this Web site and, ultimately, in this museum. Adding in a conservative woman to balance out Sanger's inclusion does not alleviate the fact that the museum tries to whitewash her abhorrent views and props Margaret Sanger up as a role model for our daughters and for our granddaughters.

The list of troubling examples goes on, including the fact they leave out the pro-life views of the early suffragettes.

But let's face it, we wouldn't be here today if it weren't the museum's ultimate goal to get a place on The Federal Mall, for land, and for Federal funding. If you look at their authorizing legislation, you will see that it was a template for this legislation: begin with a commission, then congressional approval, and finally Federal funding. For 16 years, this group has tried to raise financial support, and the museum has only been able to raise enough to cover the current operating expenses and salaries of those trying to get this museum. Nothing has gone toward the $400 million for its building.

As it is currently written, the legislation lacks the necessary safeguards to ensure that the proposed museum will not become an ideological shrine

to abortion, that will eventually receive Federal funding and a prominent spot on The National Mall.

I thank the leading pro-life groups, like Concerned Women for America, Eagle Forum, Family Research Council, Susan B. Anthony List, and Heritage Action, among others, who have been outspoken on standing up for the right to life for all Americans in an accurate portrayal of American women.

Since these concerns have not been adequately addressed, I urge my colleagues to join me in voting against H.R. 863.

Mrs. CAROLYN B. MALONEY of New York. Madam Speaker, this bill, as we all know, if you read it, will not cost taxpayers one single dime. It will not cost taxpayers one single cent. It didn't cost it in the past, it doesn't today, and it will not in the future use any Federal funding. It is written into the legislation.

And the commission is not at all about determining the content of the museum. That part would come much later if the recommendations were approved by this body. The content would be determined in the future by professional curators that would chronicle the history of this great country and the great women that are a part of it. The commission would have 18 months to prepare and submit their recommendations to Congress, and then Congress, this body, would have the final say. So if Congress decides favorably, then, and only then, would a second bill be needed to support the museum and move forward.

So to vote ''no'' on this bill would basically be voting ''no'' on a cost-free, no-strings-attached conversation by a bipartisan panel on the important contributions of women to this country.

I now yield such time as she may consume to the distinguished gentlewoman from the District of Columbia, ELEANOR HOLMES NORTON, and I thank her for her extraordinary leadership on this issue and so many, many other issues.

Ms. NORTON. Madam Speaker, I thank my friend, the gentlewoman from New York. Her persistence has been indomitable; and without that persistence, we certainly would not be on the floor today.

But I also want to thank the Majority leadership who have permitted this bill to come forward on suspension, and I particularly thank the gentlewoman from Wyoming for her leadership.

The remarks of the gentlewoman from Minnesota were unfortunate. You would think you were voting on a museum. My colleagues, this is not a bill for a museum. This is a bill for a commission to study whether there should be a museum and under what circumstances. It is unfortunate, indeed, to criticize a bill for a study, the outcome of which we have no idea, except for the following:

The appointees to this commission will come from the leadership of this House and the minority in this House and from the leadership in the Senate and the minority in the Senate. It seems to me it would be very difficult for this bill to be converted into not a study of whether the history of women in the United States should be commemorated but a study of current women's issues that are highly controversial. To have a museum featuring controversial issues of the day flies in the face of what women's history has been about. That is for this House. That is not for a museum.

There is no neglect of the issues that the gentlewoman was concerned about—pro-life issues, traditional family—where we find Democrats and Republicans on both sides of those issues. You get lots of discussion on that. But, Madam Speaker, there is almost no discussion about the history of women in our country.

There are lots of things we could disagree about, but I think that almost no one will disagree that the time has come to at least study whether there should be an institution, a museum, not about women in America—and I stress, this is not a women's museum. It is about the history of women in America. The gentlewoman from New York has spoken about how distinguished that history has been. But it should come as no surprise that women were not writing the history books, and so women, like many others in our country, have not exactly been included. Yet we are half of the population.

Wherever you stand on women's issues, I am sure there is consensus in this House that half of the population should not go unmentioned in the textbooks of our country, should not be unseen in the memorials and in the museums of our country, and certainly should be in the Nation's Capital. If there is to be a museum—and we don't know what the commission will find—I would surely hope it would be in the Nation's Capital, where, for the first time, women's history, historical figures who are women, would be acknowledged and perhaps commemorated.

I do want to say one thing about what these commissions do. If we who desire a women's museum made any mistake, it was being so enthusiastic that we went straightforward to try to set up a museum, saw no reason why there wouldn't be unanimous consent, virtually, to have a museum about women's history in our country. That was a mistake. We should have gone the same route that many before us have gone: set up a commission to see whether you ought to have a museum at all; do it in an entirely bipartisan way so as to make sure that if you authorize a museum, it can't possibly be controversial.

And that is what we have here, a fail-safe method of assuring that if you vote for this commission, you are voting for a study, and nothing more than a study. If you don't like this study, you will surely have another chance to say ''no.'' Women, Democratic and Republican, deserve a bipartisan commission to give our country, if they can agree, a nonpartisan museum in the Nation's Capital.

And I thank the gentlelady from New York particularly for her hard work. This is hard work that began when the President's Commission on the Celebration of Women called for a women's museum in Washington. I remind the House that the House has voted for this museum. The Senate has voted for the museum. All that has been lacking is Senate and House votes for the museum at the same time.

□ 1445

Today we are not voting for a museum. We ask you to vote only for a commission to study whether there should be a museum. We got so far last time as to actually find land for this museum. All of that is pulled back to put before the House today: Do you believe that the history of women in the United States of America is important enough to appoint a commission to study that history?

I thank the gentlelady.

Mrs. CAROLYN B. MALONEY of New York. Madam Speaker, I want to underscore that no taxpayer money will be used now or in the future. In fact, there is a National Women's History Museum organization with a 501(c)(3) that is headed by Joan Wages, and they have already raised well over $10 million privately to support the commission and the commission's work.

Madam Speaker, I reserve the balance of my time.

Mrs. LUMMIS. Madam Speaker, at this time, I would like to yield 7 minutes to the gentlelady from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Madam Speaker, I thank the gentlelady from Wyoming for her superb work on this issue and for her guidance as this bill moved through the Natural Resources Committee. It is amazing. We had two committees of jurisdiction that oversaw this legislation, House Admin, chaired by Congresswoman CANDICE MILLER, and Natural Resources, with Congressman DOC HASTINGS.

This legislation came through each of these committees on a unanimous vote—a unanimous vote, something deemed impossible in Washington—but everybody agrees that it is time that we come together and that we have an appropriate, bipartisan approach to addressing the collecting and the enshrining of what women have done in the fight and the cause of freedom.

Now, Madam Speaker, I do want to highlight just a couple of things. There has been so much misinformation distributed about the bill. This is a 10-page bill—I should say nine pages and about three lines. I think that Congresswoman MALONEY, who has worked so diligently on this effort, will say, and as she and I discussed this morning, we basically have come forward and agreed on a new approach for all

museums that could possibly want to be considered. That approach is Congress, not a Presidential commission, but Congress having the ability to determine, in a bipartisan way, who serves on the commissions to review these museums and do a feasibility study, which is something those of us in business always do before we embark on any project. It is appropriate that the Federal Government do that, also. This is a fiscally conservative approach to addressing the cost of a museum.

Now, the duties of the commission my colleagues are going to find on page 4, and you will see there are several things that will be covered in this feasibility study: the availability and cost of collections, the impact of the museum on women's regional, history-related museums, potential locations in D.C., whether or not the museum should ever be part of the Smithsonian, the governance and organizational structure, best practices for engaging women in the development and design of the museum, and the cost and construction of operating and maintaining. In other words, they have got to have an endowment. They have to be able to pay their operational costs and their upfront costs—all of it—with private funds—never, ever with one penny of taxpayer money into this project.

Now, after 18 months of work, the commission will report back to Congress, an independent review will be done of their work, and then there will be a determination by Congress on whether or not to proceed with this project. That is the point at which there will be a vote on whether or not to carry forth with a museum.

But I would highlight with my friends this is about chronicling the history that women have participated in, the freedom and opportunity of this country and the fullness of opportunity in this country. We talk so much about how we work with other nations and especially some of these nations that have struggled in Eastern Europe and in the Middle East, and we show what freedom can do for hope and opportunity for women and children.

Wouldn't it be great if we had a museum that told that story? Like the story of the suffragists—Seneca Falls—that convention which—by the way it was Republican and conservative women and the Quakers who called together the Seneca Falls convention to start looking at the issue of suffrage. You probably are also interested to know Frederick Douglass was the one gentleman invited to speak at that convention on suffrage, then, of course, the suffragists who led the fight, Susan B. Anthony, Elizabeth Cady Stanton, Lucretia Mott, and Anne Dallas Dudley—strong Republican women. It is time for that story to be told.

The ratification of the 19th Amendment with women receiving the right to vote took place in Nashville, Tennessee, my State, at our State capitol, where I have had the opportunity, and the Speaker has also had the opportunity, to serve.

We know that it is important to tell that story of what women have done in the cause of freedom. That is why we have come together to agree on the structure, to work to put a commission in place that will do the necessary due diligence, that will put the safeguards in place, and will guarantee that in perpetuity—forever—there will not be Federal taxpayer money that is spent on this.

Madam Speaker, working to highlight what women have accomplished is a worthy goal, and it is something that in a bipartisan manner we should be able to come together and to agree on. This is a goal, and Washington, D.C., is an appropriate place that we can recognize this history, we can chronicle this history, and for future generations, our children, our grandchildren, and for other nations as they come to see us, they can see how women find victory through freedom, opportunity, and the doors that open and what it allows them to experience in their lives.

I thank the chairman from Wyoming for yielding the time.

Mrs. CAROLYN B. MALONEY of New York. Madam Speaker, I want to thank the gentlewoman from the great State of Tennessee for her statement on the floor today and her hard work in passing this bill.

My good friend, Mrs. BACHMANN, said there were 20 other women's museums. Well, there is not one comprehensive women's museum that chronicles the achievements and the contributions of women. There are many niche museums. There is a museum in Seneca Falls that pays tribute to the founding mothers of the first women's rights convention, the abolitionist movement, and the right for women to gain the right to vote. There are museums in the Capital for women artists. There is part of the Smithsonian that focuses on the first ladies and the gowns that they wore in their inaugural. There are niche museums out West for the pioneering great women who led the effort in the West. But there is not one comprehensive museum, and I find it astonishing in the United States that chronicles the many outstanding women contributions. If you Google all the women that have won the Nobel, it is astonishing, but there is no place that displays this.

So, I think it is long overdue to have a national women's history museum. Quite frankly, I can't even find one in the entire world that chronicles women's contributions.

I would now like to yield 1 minute to the gentlelady from the great State of New York, Congresswoman MENG, my distinguished colleague, which she has requested, but she can have more if she wants it.

Ms. MENG. Madam Speaker, I also want to thank my colleagues, Congresswomen CAROLYN MALONEY and MARSHA BLACKBURN, for championing this important issue.

Madam Speaker, I rise in support of H.R. 863 to establish the commission to study the potential creation of a national women's history museum. This bipartisan legislation is a small step to ensuring women's stories are shared, celebrated, and inspire future generations of Americans. Unfortunately, women's stories and accomplishments have consistently been forgotten, or presented only as a footnote.

Despite the great strides women have made in America, we are still underrepresented in essential sectors, such as business, government, and the critical fields of science, technology, engineering and mathematics. Research has demonstrated that one of the factors limiting success for women and minorities is the lack of both celebrated specific role models and overall restricted representation.

In other words, simply having a museum showcasing women's accomplishments as an integral part of our history—whether it is individuals who broke barriers, social movements led by women, or the demonstration that women were not necessarily defined by men in their lives—will ultimately lead to more young women and minorities striving to break the glass ceiling and create a more equitable society for us all.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mrs. CAROLYN B. MALONEY of New York. I yield the gentlewoman an additional 30 seconds.

Ms. MENG. The National Women's History Museum already hosts online exhibits, but a building complete with permanent access to resources would allow for further research and increased access for our citizens.

This legislation allows for the creation of a commission to study the feasibility of creating a permanent museum, and prohibits Federal funds from being used for this project. I encourage my colleagues to support this long overdue legislation.

Mrs. LUMMIS. Madam Speaker, I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Madam Speaker, I yield 1 minute to the gentlelady from the great State of Maryland, DONNA EDWARDS, the distinguished leader who is also the chair of the bipartisan Women's Caucus here in Congress.

Ms. EDWARDS. Madam Speaker, I want to thank the gentlewomen from New York, from Tennessee, and from Wyoming for your leadership and for doing what women do in this Congress, which is work together toward a common good. So I thank you very much for your leadership.

Madam Speaker, I rise today in support of H.R. 863, the National Women's History Commission Act. It is a bill that would establish a commission to study the potential creation of the National Women's History Museum right here in Washington, D.C., and, as has been stated before, not at any cost to the taxpayer.

It would showcase the contributions that women have made throughout our

history, both in this country and around the world, contributions that have historically been underrepresented, to say the least, in books, museums, and other records of our Nation's great story.

There are institutions, for example, in Maryland, the Maryland Women's Heritage Center in Baltimore, that are really leading the pushback in our State against the void of women's representation in our historical records. The Baltimore Heritage Center serves as a museum, an information resource center, and a gathering place for events focused on impacting girls and women. When I visited the Heritage Center, number one, they said to me, are you supporting the National Women's History Commission Act?

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mrs. CAROLYN B. MALONEY of New York. I yield the gentlelady an additional 30 seconds.

Ms. EDWARDS. This will complement those histories and tell the story of women at the Goddard Space Flight Center, women who are in science, technology, engineering, and math; women who are engineers, explorers and innovators. So, I want to thank the gentlewomen for their work on this effort, and I urge my colleagues to support the commission bill, to study the process—there is no cost to the taxpayer—and to see into law, finally, telling the stories of women all across this country.

Mrs. LUMMIS. Madam Speaker, I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Madam Speaker, may I inquire how much time remains?

The SPEAKER pro tempore. The gentlewoman from New York has 2 minutes remaining.

Mrs. CAROLYN B. MALONEY of New York. Madam Speaker, I would like to just point out and build on what my good friend and colleague, MARSHA BLACKBURN, said. It was Seneca Falls in New York that was the birthplace of the suffrage movement to grant women the right to vote.

In 1920, when the 19th Amendment granting that right to vote was at last in the process of being ratified by the States, it was the State of Tennessee that put that effort over the top. Now Tennessee and New York have come together again, and we are working very hard to create a women's museum that will talk about this great achievement and many others in all fields that have empowered this country and moved this country forward—not only achievements by individual women, but I would say collective achievements by women and their hard work, such as the effort by women to create pasteurization of milk, the immunization of children, increased health care, improved health care, and improved education. These are all efforts that collectively women have worked together on.

So I ask my colleagues today to vote ''yes'' on this bill and to vote for allowing an idea to be examined and to come forward before this committee again, and let's see how it can work.

□ 1500

A ''yes'' vote will cost this country nothing, and it could mean everything to our young people, to our girls and our boys and our children and their children to be able to come to their Nation's Capital and to learn many things, including the many important contributions of half the population, women.

I would like to remind my colleagues that this is Mother's Day week, and I cannot think of a better present to our mothers than to recognize the contributions that they have made to the American family and to this country.

I yield back the balance of my time.

Mrs. LUMMIS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to congratulate the women who have participated in this debate today. These are dynamic American leaders. I want to thank each and every one of them, including the gentlelady from Minnesota, who expressed the views of those who have concerned about this bill. They were well articulated.

She is someone with whom I am proud to serve in Congress and was very proud to see in the dais, participating in lively, strident debates when she ran for President, seeking the Republican nomination in the last Presidential election. These are all very formidable, important women—gentlewomen, one and all.

I rise in support of the study and in support of the passage of this bill. I come from the Equality State, the State of Wyoming, the first government in the world to continuously grant women the right to vote, so I come by my point of view honestly.

I am very excited about the opportunity to study and to report back to this Congress the notion of having a museum of the history of American women. The contributions to our society of American women are so extraordinary and are sometimes underrepresented.

I particularly look forward to touting the opportunity to show the history of American women of the West, people like Cattle Kate. She was a criminal, a scoundrel, a cattle thief. She was the first woman hanged in Wyoming. She is a historical figure.

Sacagawea, who led the Lewis and Clark expedition across this great, vast country; Annie Oakley, who was portrayed as a model of the American West and freedom in Buffalo Bill Cody's Wild West show; and particularly, I would like to see Dale Evans recognized in this museum.

Let me tell you something about Dale Evans you may not know. Dale Evans was an actress, a songwriter, a mother, and she was the wife of Roy Rogers. They were the king of the cowboys and the queen of the cowgirls. Dale Evans and Roy Rogers had a special-needs child among their many children.

Back in Hollywood in the late 1940s and 1950s, there was a cultural condition in this country that was particularly prevalent in Hollywood, and that was people didn't want to see special-needs children in public. People didn't want to face the fact that not everyone in this country is born exactly the same.

Roy and Dale took their special-needs child with them everywhere they went, and they were ostracized, and they ceased to be invited to people's homes because they didn't want to see that child. It was a gutsy thing to do.

Roy Rogers and Dale Evans changed the way Americans viewed special-needs children. Now, when we see special-needs people in our society, it puts a smile on our faces. They are so integrated into our every day, and they are important members of our society.

When that child died, Dale Evans wrote the song ''Happy Trails'' to that child. She wrote, ''Happy trails to you, until we meet again,'' and in my heart, I believe they will meet again, Madam Speaker.

I think those are the kinds of women that we want to see portrayed in American history, and I am highly supportive of this study. I look forward to robust participation by Republican and Democrats and look forward to receiving the study, not knowing how it is going to turn out, but with great hope and expectation for something terrific, at least on paper, so we can determine at that point whether to move forward.

Mr. Speaker, I commend to this body's attention H.R. 863.

I yield back the balance of my time.

Ms. LOFGREN. Mr. Speaker, I rise to speak in support of H.R. 863 to commission a study on the potential creation of a National Women's History Museum.

As you know Mr. Speaker, women make up over half of our population, and yet we know their stories are often underrepresented—and underappreciated—in our history.

Here in the Capitol, for example, we have over 200 statues, but only 12 depict women. As Ms. Magazine recently noted, ''The nation's capital includes museums for the postal service, textiles and spies, but lacks a museum to recognize the rich history and accomplishments of women in the U.S.''

Mr. Speaker, the stories of women tell the story of our nation's history, and they deserve to be enshrined for future generations to learn and celebrate. I'm so pleased that my colleagues CAROLYN MALONEY and MARSHA BLACKBURN have introduced this important legislation to start the process of creating a museum where the achievements and lives of women are chronicled and celebrated.

I urge my colleagues to support this bill.

Mrs. BEATTY. Mr. Speaker, I rise in support of the National Women's History Commission Act, HR. 863, introduced by my esteemed colleague from New York, Congresswoman CAROLYN MALONEY.

Representative MALONEY has worked diligently to get this important bill to the floor, and I thank her for her tremendous efforts.

H.R. 863 would establish a commission to report recommendations to the President and Congress concerning the establishment of a National Women's History Museum in Washington, DC.

The National Women's History Museum Commission would be at no additional cost to the taxpayer, as the commission is entirely paid for without the use of federal funds.

The Museum's mission would be to educate, inspire, empower, and shape the future by integrating women's distinctive history into the culture of the United States.

All too often, women's history is largely missing from textbooks, memorials, and museum exhibits.

Of the 210 statues in the United States Capitol, only nine are of female leaders.

Less than five percent of the 2,400 national historic landmarks chronicle women's achievement.

The museums and memorials in our nation's Capital demonstrate what we value.

This bill would provide women, who comprise 53% of our population, a long overdue home on our National Mall honoring their many contributions that are the very backbone of our country.

This effort is about bringing together women and remembering those women that came before us, who persevered and changed the course of history, and on whose shoulders we stand today.

These unique experiences, perspectives, and historic accomplishments deserve recognition in our nation's capital.

It is time for the women of our nation to be recognized with this landmark.

H.R. 863 is a critical step in advancing the National Women's History Museum by providing us with a blueprint of steps to take in order to finally tell the story of more than half of our country's population.

Let us honor our nation's foremothers and inspire present and future generations of women leaders.

I urge all Members of the House to vote in favor of this bill.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of H.R. 863, the National Women's History Museum Commission Act. Legislation to establish such a museum passed by voice vote in the 113th Congress but the privately-funded museum lacks a home.

While women's accomplishments have helped to build this country, historical contributions are missing from museums, textbooks, and memorials. This legislation would allow for a commission to study the creation and make proposals for the building of the National Women's History Museum. At no cost to the taxpayer and without using any federal funds, the museum would help to tell the inspiring stories of the important women that came before us.

Celebrating and recognizing women in history is necessary at a time when roughly ten percent of historical references are related to women. The legislation on the floor is not only bipartisan, it has the support of many male and female Members of Congress.

Please join me in supporting H.R. 863, the National Women's History Museum Commission Act by passing the legislation today.

Mr. BRADY of Pennsylvania. Mr. Speaker, I urge passage of H.R. 863, a bill to establish the Commission to Study the Potential Creation of a National Women's History Museum, sponsored by Rep. CAROLYN MALONEY of New York. While Natural Resources is the primary committee, the legislation was referred to the Committee on House Administration as an additional referral because H.R. 863 suggests that the Commission study whether or not such a museum, if created, should be part of the Smithsonian Institution. Our committee discussed that issue at a hearing before we filed our report in the House.

I want to draw attention to an issue which was not addressed in amendments to this legislation by either committee—the proper structure of the Commission. The bill would create an 8-member commission, but previous commissions of this type to study whether museums should become part of the Smithsonian proposed a larger group, 23 members. The larger number seems more practical for ensuring a variety of opinions and providing sufficient personnel to be available to do the Commission's work. There is likely to be significant interest by well-qualified persons to serve on the commission. Additionally, the bill only provides for appointments by the bipartisan, bicameral congressional leadership of each chamber of Congress, but not by the president. The recent commissions to study the National Museum of African American History and Culture, which is now under construction on the Mall, and the National Museum of the American Latino, which is now awaiting a hearing in the House Administration Committee, had presidential appointees. I believe this is a prerequisite for creating a truly national museum. When this legislation reaches the Senate, I hope that the other body will make appropriate adjustments to achieve this goal.

I include the Additional Views submitted by the Democratic members of the Committee on House Administration as part of our committee report, H. Rept. 113 09411, Part 1, filed in the House on April 10, 2014:

ADDITIONAL VIEWS

We strongly support the ''Commission to Study the Potential Creation of a National Women's History Museum Act of 2013'', to recognize the role and achievements of the women of America. H.R. 863, the bill introduced by Rep. Carolyn Maloney of New York to authorize the commission, was ordered reported unanimously by the Committee on House Administration on April 2, 2014. The primary committee to which the legislation was referred, Natural Resources, is expected to report the legislation shortly.

The principal interest of our Committee is in whether such a museum should become part of the Smithsonian Institution. The commission created by H.R. 863 is directed to study pros and cons of a potential Smithsonian affiliation, and that issue was also discussed during testimony at our earlier hearing on this legislation. A Smithsonian museum would be subject to direction by that Institution's Board of Regents and its governance and management structure. Two other recent national commissions were authorized by Congress and both recommended that the Smithsonian structure be used for the museums they were studying: the National Museum of African American History and Culture, currently under construction on the National Mall and scheduled to open in less than two years; and the National Museum of the American Latino, whose commission's report submitted in 2011 is likely to receive a hearing soon in the Committee on House Administration.

An alternative recommendation by the commission might be for a National Women's History Museum to exist as an independent entity, with its own governing board. In either case, whether as a Smithsonian museum or independent, H.R. 863 anticipates that the museum will receive private donations but no government funding.

In reporting H.R. 863, our Committee took no position on the governance issue, but we have ample experience in evaluating the Smithsonian's capabilities in building and managing the large number of museums currently under its control, and so we kept that option in the bill. The commission should exercise its best judgment in determining what would work best for this specific museum within the expected budgetary constraints, and Congress would review those recommendations in formulating later legislation to actually create a museum.

One issue of concern to us relates to the size and composition of the eight-member congressionally-appointed commission proposed to be established in H.R. 863, and the absence of any presidential appointees. In order to have a true national museum, participation by the president is important in order to give the commission the status and credibility, as well as the variety of members, necessary to perform its tasks and to help raise the necessary private funds when that time comes. Both the African American Museum commission and the American Latino Museum commission had seven presidential appointees out of 23 members, with the majority appointed by the congressional leadership.

There are no partisan issues concerning this legislation. The commission needs to be seen as the national commitment that it is, rather than be limited as a creature of the legislative branch.

An amendment had been drafted by the Democratic staff, which the House parliamentarian confirmed was within the jurisdiction of the House Administration Committee to take up, to establish presidential appointees in H.R. 863. Ranking Member Brady alluded to the issue in his opening statement. But the amendment was withheld during our markup at Chairman Miller's request. The Committee on Natural Resources may consider the issue in their role as the primary committee, at their own markup, and we will continue to focus attention on the issue during preparation of a final text of the bill for action on the House floor.

ROBERT A. BRADY.
ZOE LOFGREN.
JUAN VARGAS.

The SPEAKER pro tempore (Mr. WOMACK). The question is on the motion offered by the gentlewoman from Wyoming (Mrs. LUMMIS) that the House suspend the rules and pass the bill, H.R. 863, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. BACHMANN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

## AUTHORIZING USE OF EMANCIPATION HALL TO CELEBRATE BIRTHDAY OF KING KAMEHAMEHA I

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules

and agree to the concurrent resolution (H. Con. Res. 83) authorizing the use of Emancipation Hall in the Capitol Visitor Center for an event to celebrate the birthday of King Kamehameha I.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

H. CON. RES. 83

*Resolved by the House of Representatives (the Senate concurring),*

**SECTION 1. USE OF EMANCIPATION HALL FOR EVENT TO CELEBRATE BIRTHDAY OF KING KAMEHAMEHA I.**

(a) AUTHORIZATION.—Emancipation Hall in the Capitol Visitor Center is authorized to be used for an event on June 8, 2014, to celebrate the birthday of King Kamehameha I.

(b) PREPARATIONS.—Physical preparations for the conduct of the ceremony described in subsection (a) shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from Hawaii (Ms. GABBARD) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of House Concurrent Resolution 83, which authorizes the use of Emancipation Hall on June 8 to celebrate the birthday of King Kamehameha, a legendary figure in the State of Hawaii.

Commemorating the life and legacy of King Kamehameha is an opportunity for the Hawaiian people to celebrate their very, very rich history and culture, not just amongst themselves, but with the entire world.

Such a celebration is fitting to take place in our Nation's Capitol, where Hawaiians and non-Hawaiians alike can learn about this extraordinary ruler.

On June 11, the people of Hawaii will celebrate the annual Kamehameha Day, commemorating the life of Kamehameha the Great who, between 1795 and 1810, unified the islands into the Kingdom of Hawaii. The resolution before us today will authorize the use of this space for the celebration of his life and great accomplishments.

History, Mr. Speaker, documents King Kamehameha as a fierce warrior who fought for unity and independence. Many people of his time and for centuries later have placed a high regard on King Kamehameha for ruling with fairness and compassion. He also opened up Hawaii to the rest of the world through his leadership and encouragement of trade and peaceful activity.

He is actually remembered for his law, which is known as the Law of the Splintered Paddle, which specifically protects civilians in wartime and is a model for human rights around the world today.

So it is more than fitting that the statute of King Kamehameha, which was added to the National Statuary Hall collection by Hawaii in 1969, is now prominently displayed in Emancipation Hall in the Capitol Visitor Center.

I thank the gentlewoman from Hawaii (Ms. GABBARD) for introducing this concurrent resolution, and I urge my colleagues to support it.

I reserve the balance of my time

Ms. GABBARD. Mr. Speaker, aloha. I rise in strong support of H. Con. Res. 83, and I yield myself such time as I may consume.

First, I thank the gentlewoman from Michigan (Mrs. MILLER), who I had the pleasure and honor of serving with on the House Homeland Security Committee, for her strong support of this resolution and her recognition of the legacy and the history of King Kamehameha in Hawaii and the lessons that we have all learned and that continue to remain relevant to the people's work that we do here every day.

Your support and recognition of this means a lot to me personally, but also to the people of my great home State of Hawaii, and I also have to mention that my mother is from your home State of Michigan, so I appreciate your home as well.

I rise today in support of H. Con. Res. 83, authorizing the use of Emancipation Hall in the Capitol Visitor Center for an event to celebrate the birthday of King Kamehameha I.

Kamehameha was also known as Kamehameha the Great. He was a skilled and intelligent military leader, monarch, and statesman. He established his reputation and dynasty by uniting all of Hawaii under one rule, thereby bringing and ensuring peace to the islands and protection to his people during a time of Western colonialism.

He was born in a small town called North Kohala in my district on the island of Hawaii around 1758, descending from the royal families of Hawaii and Maui.

As a young man, he distinguished himself as a talented warrior and military strategist. By 1795, Kamehameha had conquered the islands of Maui, Lanai, Kahoolawe, Molokai, and Oahu. He later acquired Kauai and Niihau through a treaty in 1810, uniting all of Hawaii under his control and creating a kingdom recognized and respected around the world.

As king, Kamehameha focused on governing Hawaii in a manner that perpetuated the native Hawaiian culture while also integrating foreign influences. He appointed governors for each island, made laws for the protection of all, planted taro, built houses and irrigation ditches, restored heiau, and promoted international trade.

Prominent European Otto von Kotzebue wrote:

> The king is a man of great wisdom and tries to give his people anything he considers useful. He wishes to increase the happiness and not the wants of his people.

These words are as relevant back then as they are today.

One of Kamehameha's enduring legacies is the Kanawai Mamalahoe, or Law of the Splintered Paddle, which serves as a model for human rights policies on noncombatants during wartime.

It was created as a result of a military expedition in which Kamehameha was violently struck by a fisherman trying to protect his family. Chastened by this experience, Kamehameha declared:

> Let every elderly person, woman, and child lie by the roadside in safety.

This law, which provided for the safety of civilians, is estimated to have saved thousands of lives during Kamehameha's military campaigns. It became the very first written law of the Kingdom of Hawaii and remains in the Hawaii State Constitution to this very day.

In 1871, Kamehameha Day was established to celebrate and honor one of Hawaii's greatest leaders. Today, it is observed as a State holiday, attracting tourists from around the world, filled with parades and lei draping at the statues that exist in his honor.

One of these statutes is very proudly displayed here in Emancipation Hall in the Capitol Visitor Center. Kamehameha is depicted with a spear in his left hand, as a reminder that he brought wars to an end. His right hand is extended with open palm as a gesture of the aloha spirit.

For the last 43 years, we have celebrated Kamehameha Day here in our Nation's Capital. I urge my colleagues to support H. Con. Res. 83 to authorize the use of Emancipation Hall as we continue this tradition in celebrating the birthday of King Kamehameha I.

□ 1515

Mr. Speaker, just in closing, I urge all of my colleagues to support H. Con. Res. 83 so that we can continue this tradition and remember and honor and apply the legacy and history of one of Hawaii's greatest leaders.

I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I would just close by again thanking my colleague from Hawaii (Ms. GABBARD) for introducing this resolution. It was our great privilege to serve together on the House Homeland Security Committee. I was somewhat sorry, but glad at the same time, for her to now be a member of the House Armed Services Committee.

I also want to thank her for her service to our country in the military before she came to Congress. It was interesting for me listening to your comments about this great king and this

great leader of the great people of Hawaii.

And so certainly, Mr. Speaker, I would urge all of our colleagues to support the concurrent resolution as well, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 83.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Mr. Pate, one of his secretaries.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

Ordering the previous question on House Resolution 568, by the yeas and nays;

Adopting House Resolution 568, if ordered;

Ordering the previous question on House Resolution 569, by the yeas and nays;

Adopting House Resolution 569, if ordered; and

Suspending the rules and passing H.R. 863.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## RELATING TO THE CONSIDERATION OF HOUSE REPORT 113–415 AND AN ACCOMPANYING RESOLUTION, AND PROVIDING FOR CONSIDERATION OF H. RES. 565, APPOINTMENT OF SPECIAL COUNSEL TO INVESTIGATE INTERNAL REVENUE SERVICE

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on the resolution (H. Res. 568) relating to the consideration of House Report 113–415 and an accompanying resolution, and providing for consideration of the resolution (H. Res. 565) calling on Attorney General Eric H. Holder, Jr., to appoint a special counsel to investigate the targeting of conservative nonprofit groups by the Internal Revenue Service, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 223, nays 192, not voting 16, as follows:

[Roll No. 197]

YEAS—223

Aderholt
Amash
Amodei
Bachmann
Bachus
Barletta
Barr
Barton
Benishek
Bentivolio
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crenshaw
Culberson
Daines
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Kelly (PA)
King (IA)
King (NY)
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Perry
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—192

Barber
Barrow (GA)
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Dingell
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters (CA)
Peters (MI)
Peterson
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rahall
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—16

Bass
Clark (MA)
Coble
Crawford
Davis, Rodney
Duffy
Gingrey (GA)
Griffin (AR)
Hinojosa
Joyce
Kingston
Lowey
Miller, Gary
Pelosi
Rush
Schwartz

□ 1542

Messrs. NADLER, CROWLEY, and CUELLAR changed their vote from ''yea'' to ''nay.''

Mr. KING of New York changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. RODNEY DAVIS of Illinois. Mr. Speaker, on rollcall No. 197 I was unavoidably detained. A meeting with constituents went longer than expected. Had I been present, I would have voted "yes."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 187, not voting 20, as follows:

[Roll No. 198]

AYES—224

Aderholt
Amash
Amodei
Bachmann
Bachus
Barber
Barletta
Barr
Barton
Benishek
Bentivolio
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crenshaw
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (IA)
King (NY)
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Perry
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NOES—187

Barrow (GA)
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Dingell
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gallego
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Meng
Michaud
Miller, George
Moore
Murphy (FL)
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters (CA)
Peters (MI)
Peterson
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rahall
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Welch
Wilson (FL)
Yarmuth

NOT VOTING—20

Bilirakis
Broun (GA)
Clark (MA)
Coble
Connolly
Crawford
Duffy
Gabbard
Gingrey (GA)
Griffin (AR)
Hinojosa
Kingston
Miller, Gary
Moran
Pelosi
Rogers (AL)
Rush
Schrader
Schwartz
Waxman

□ 1548

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PROVIDING FOR CONSIDERATION OF H.R. 4438, AMERICAN RESEARCH AND COMPETITIVENESS ACT OF 2014

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on the resolution (H. Res. 569) providing for consideration of the bill (H.R. 4438) to amend the Internal Revenue Code of 1986 to simplify and make permanent the research credit, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 225, nays 191, not voting 15, as follows:

[Roll No. 199]

YEAS—225

Aderholt
Amash
Amodei
Bachmann
Bachus
Barletta
Barr
Barton
Benishek
Bentivolio
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coffman
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crenshaw
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (IA)
King (NY)
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Perry
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—191

Barber
Barrow (GA)
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Dingell
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva

Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Matheson
Matsui
McCollum
McDermott
McGovern
McNerney
Meeks
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters (CA)
Peters (MI)
Peterson
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rahall
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—15

Clark (MA)
Coble
Cole
Crawford
Duffy
Foster
Gingrey (GA)
Griffin (AR)
Hinojosa
Kingston
McCarthy (NY)
Miller, Gary
Pelosi
Rush
Schwartz

□ 1554

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Mr. FOSTER. Mr. Speaker, on May 7th I missed one recorded vote. I would like to indicate how I would have voted had I been present. On rollcall No. 199, I would have voted "no."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 230, noes 188, not voting 13, as follows:

[Roll No. 200]

AYES—230

Aderholt
Amash
Amodei
Bachmann
Bachus
Barber
Barletta
Barr
Barton
Benishek
Bentivolio
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crenshaw
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Himes
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (IA)
King (NY)
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Lofgren
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Mullin
Mulvaney
Murphy (FL)
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Perry
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NOES—188

Barrow (GA)
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Dingell
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Meng
Michaud
Miller, George
Moore
Moran
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters (CA)
Peters (MI)
Peterson
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—13

Clark (MA)
Coble
Crawford
Duffy
Gingrey (GA)
Griffin (AR)
Hinojosa
Hurt
Kingston
Miller, Gary
Pelosi
Rush
Schwartz

□ 1601

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HURT. Mr. Speaker, I was not present for rollcall vote No. 200, on agreeing to the resolution on H. Res. 569. Had I been present, I would have voted "yea."

## COMMISSION TO STUDY THE POTENTIAL CREATION OF A NATIONAL WOMEN'S HISTORY MUSEUM ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 863) to establish the Commission to Study the Potential Creation of a National Women's History Museum, and for other purposes, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Wyoming (Mrs. LUMMIS) that the House suspend the rules and pass the bill, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 383, nays 33, not voting 15, as follows:

[Roll No. 201]

YEAS—383

Aderholt
Amodei
Bachus
Barber
Barletta
Barr
Barrow (GA)
Barton
Bass
Beatty
Becerra
Benishek
Bentivolio
Bera (CA)
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Black
Blackburn
Blumenauer
Bonamici
Boustany
Brady (PA)
Brady (TX)
Braley (IA)
Brooks (AL)
Brooks (IN)
Brown (FL)
Brownley (CA)
Buchanan
Bucshon
Burgess

Bustos
Butterfield
Byrne
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Carter
Cartwright
Cassidy
Castor (FL)
Castro (TX)
Chabot
Chaffetz
Chu
Cicilline
Clarke (NY)
Clay
Cleaver
Clyburn
Coffman
Cohen
Cole
Collins (GA)
Collins (NY)
Conaway
Connolly
Conyers
Cook
Cooper
Costa
Cotton
Courtney
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Daines
Davis (CA)
Davis, Danny
Davis, Rodney
DeFazio
DeGette
Delaney
DeLauro
DelBene
Denham
Dent
DeSantis
DesJarlais
Deutch
Diaz-Balart
Dingell
Doggett
Doyle
Duckworth
Edwards
Ellison
Ellmers
Engel
Enyart
Eshoo
Esty
Farenthold
Farr
Fattah
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foster
Foxx
Frankel (FL)
Frelinghuysen
Fudge
Gabbard
Gallego
Garamendi
Garcia
Gardner
Gerlach
Gibbs
Gibson
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Grayson
Green, Al
Green, Gene
Griffith (VA)
Grijalva
Grimm
Guthrie
Gutiérrez
Hahn
Hall
Hanabusa
Hanna
Harper
Hastings (FL)
Hastings (WA)
Heck (NV)
Heck (WA)
Herrera Beutler
Higgins
Holding
Holt
Honda
Horsford
Hoyer
Hudson
Huffman
Huizenga (MI)
Hultgren
Hunter
Hurt
Israel
Issa
Jackson Lee
Jeffries
Jenkins
Johnson (GA)
Johnson (OH)
Johnson, E. B.
Johnson, Sam
Jolly
Jordan
Joyce
Kaptur
Keating
Kelly (IL)
Kelly (PA)
Kennedy
Kildee
Kilmer
Kind
King (IA)
King (NY)
Kinzinger (IL)
Kirkpatrick
Kline
Kuster
Labrador
LaMalfa
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
Latta
Lee (CA)
Levin
Lewis
Lipinski
LoBiondo
Loebsack
Lofgren
Lowenthal
Lowey
Luetkemeyer
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lummis
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Marino
Matheson
Matsui
McAllister
McCarthy (CA)
McCarthy (NY)
McCaul
McCollum
McDermott
McGovern
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
McNerney
Meehan
Meeks
Meng
Messer
Michaud
Miller (FL)
Miller (MI)
Miller, George
Moore
Moran
Mullin
Mulvaney
Murphy (FL)
Murphy (PA)
Nadler
Napolitano
Neal
Negrete McLeod
Noem
Nolan
Nugent
Nunes
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pearce
Perlmutter
Perry
Peters (CA)
Peters (MI)
Peterson
Petri
Pingree (ME)
Pittenger
Pitts
Pocan
Poe (TX)
Polis
Posey
Price (GA)
Price (NC)
Quigley
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Richmond
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Roybal-Allard
Royce
Ruiz
Runyan
Ruppersberger
Ryan (OH)
Ryan (WI)
Salmon
Sánchez, Linda T.
Sanchez, Loretta
Sanford
Sarbanes
Scalise
Schakowsky
Schiff
Schneider
Schock
Schrader
Schweikert
Scott (VA)
Scott, David
Sensenbrenner
Serrano
Sessions
Sewell (AL)
Shea-Porter
Sherman
Shimkus
Simpson
Sinema
Sires
Slaughter
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Southerland
Speier
Stewart
Stivers
Swalwell (CA)
Takano
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Tipton
Titus
Tonko
Tsongas
Turner
Upton
Valadao
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Wagner
Walberg
Walden
Walorski
Walz
Wasserman Schultz
Waters
Waxman
Webster (FL)
Welch
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (FL)
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yarmuth
Yoder
Young (AK)
Young (IN)

NAYS—33

Amash
Bachmann
Bridenstine
Broun (GA)
Campbell
Duncan (SC)
Duncan (TN)
Franks (AZ)
Garrett
Harris
Hartzler
Hensarling
Huelskamp
Jones
Lamborn
Lankford
Long
Lucas
Marchant
Massie
McClintock
Meadows
Mica
Neugebauer
Nunnelee
Olson
Pompeo
Scott, Austin
Shuster
Stockman
Stutzman
Weber (TX)
Yoho

NOT VOTING—15

Clark (MA)
Coble
Crawford
Duffy
Gingrey (GA)
Griffin (AR)
Himes
Hinojosa
Kingston
Miller, Gary
Palazzo
Pelosi
Rangel
Rush
Schwartz

□ 1612

Messrs. ADERHOLT and HUDSON changed their vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. HIMES. Mr. Speaker, on May 7, 2014, I was unable to cast my vote for H.R. 863, rollcall vote 201. Had I been present, I would have voted "yea."

## WITHDRAWAL OF RUSSIA AS BENEFICIARY UNDER THE GENERALIZED SYSTEM OF PREFERENCES PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 113–107)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed:

*To the Congress of the United States:*

Consistent with section 502(f)(2) of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2462(f)(2)), I am providing notice of my intent to withdraw the designation of Russia as a beneficiary developing country under the Generalized System of Preferences (GSP) program.

Sections 501(1) and (4) of the 1974 Act (19 U.S.C. 2461(1) and (4)), provide that, in affording duty-free treatment under the GSP, the President shall have due regard for, among other factors, the effect such action will have on furthering the economic development of a beneficiary developing country through the expansion of its exports and the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

Section 502(c) of the 1974 Act (19 U.S.C. 2462(c)) provides that, in determining whether to designate any country as a beneficiary developing country for purposes of the GSP, the President shall take into account various factors, including the country's level of economic development, the country's per capita gross national product, the living standards of its inhabitants, and any other economic factors he deems appropriate.

Having considered the factors set forth in sections 501 and 502(c) of the 1974 Act, I have determined that it is appropriate to withdraw Russia's designation as a beneficiary developing country under the GSP program because Russia is sufficiently advanced in economic development and improved in trade competitiveness that continued preferential treatment under the GSP is not warranted. I intend to issue a proclamation withdrawing Russia's designation consistent with section 502(f)(2) of the 1974 Act.

BARACK OBAMA.

THE WHITE HOUSE, *May 7, 2014.*

□ 1615

## RECOMMENDING THAT THE HOUSE FIND LOIS G. LERNER IN CONTEMPT OF CONGRESS

Mr. ISSA. Mr. Speaker, by direction of the Committee on Oversight and Government Reform, I call up the report (H. Rept. 113–415) to accompany the resolution recommending that the House of Representatives find Lois G. Lerner, Former Director, Exempt Organizations, Internal Revenue Service, in contempt of Congress for refusal to comply with a subpoena duly issued by the Committee on Oversight and Government Reform.

The Clerk read the title of the report.

The SPEAKER pro tempore (Mr. AMODEI). Pursuant to House Resolution 568, the report is considered read.

The text of the report is as follows:

The Committee on Oversight and Government Reform, having considered this Report, report favorably thereon and recommend that the Report be approved.

The form of the resolution that the Committee on Oversight and Government Reform would recommend to the House of Representatives for citing Lois G. Lerner, former Director, Exempt Organizations, Internal Revenue Service, for contempt of Congress pursuant to this report is as follows:

*Resolved*, That because Lois G. Lerner, former Director, Exempt Organizations, Internal Revenue Service, offered a voluntary statement in testimony before the Committee, was found by the Committee to have waived her Fifth Amendment Privilege, was informed of the Committee's decision of waiver, and continued to refuse to testify before the Committee, Ms. Lerner shall be found to be in contempt of Congress for failure to comply with a congressional subpoena.

*Resolved*, That pursuant to 2 U.S.C. §§192 and 194, the Speaker of the House of Representatives shall certify the report of the

Committee on Oversight and Government Reform, detailing the refusal of Ms. Lerner to testify before the Committee on Oversight and Government Reform as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Ms. Lerner be proceeded against in the manner and form provided by law.

*Resolved*, That the Speaker of the House shall otherwise take all appropriate action to enforce the subpoena.

## I. EXECUTIVE SUMMARY

Lois G. Lerner has refused to comply with a congressional subpoena for testimony before the Committee on Oversight and Government Reform relating to her role in the Internal Revenue Service's treatment of certain applicants for tax-exempt status. Her testimony is vital to the Committee's investigation into this matter.

Ms. Lerner offered a voluntary statement in her appearance before the Committee. The Committee subsequently determined that she waived her Fifth Amendment privilege in making this statement, and it informed Ms. Lerner of its decision. Still, Ms. Lerner continued to refuse to testify before the Committee.

Accordingly, the Chairman of the Oversight and Government Reform Committee recommends that the House find Ms. Lerner in contempt for her failure to comply with the subpoena issued to her.

## II. AUTHORITY AND PURPOSE

An important corollary to the powers expressly granted to Congress by the Constitution is the responsibility to perform rigorous oversight of the Executive Branch. The U.S. Supreme Court has recognized this Congressional power and responsibility on numerous occasions. For example, in *McGrain* v. *Daugherty*, the Court held:

> [T]he power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function. . . . A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change, and where the legislative body does not itself possess the requisite information—which not infrequently is true—recourse must be had to others who do possess it.''[1]

Further, in *Watkins* v. *United States*, Chief Justice Earl Warren wrote for the majority: ''The power of Congress to conduct investigations is inherent in the legislative process. That power is broad.''[2]

Further, both the Legislative Reorganization Act of 1946 (P.L. 79–601), which directed House and Senate Committees to ''exercise continuous watchfulness'' over Executive Branch programs under their jurisdiction, and the Legislative Reorganization Act of 1970 (P.L. 91–510), which authorized committees to ''review and study, on a continuing basis, the application, administration, and execution'' of laws, codify the powers of Congress.

The Committee on Oversight and Government Reform is a standing committee of the House of Representatives, duly established pursuant to the rules of the House of Representatives, which are adopted pursuant to the Rulemaking Clause of the U.S. Constitution.[3] House Rule X grants to the Committee broad jurisdiction over federal ''[g]overnment management'' and reform, including the ''[o]verall economy, efficiency, and management of government operations and activities,'' the ''[f]ederal civil service,'' and ''[r]eorganizations in the executive branch of the Government.''[4] House Rule X further grants the Committee particularly broad oversight jurisdiction, including authority to ''conduct investigations of any matter without regard to clause 1, 2, 3, or this clause [of House Rule X] conferring jurisdiction over the matter to another standing committee.''[5] The rules direct the Committee to make available ''the findings and recommendations of the committee . . . to any other standing committee having jurisdiction over the matter involved.''[6]

House Rule XI specifically authorizes the Committee to ''require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of books, records, correspondence, memoranda, papers, and documents as it considers necessary.''[7] The rule further provides that the ''power to authorize and issue subpoenas'' may be delegated to the Committee chairman.[8] The subpoena discussed in this report was issued pursuant to this authority.

The Committee has undertaken its investigation into the IRS's inappropriate treatment of conservative tax-exempt organizations pursuant to the authority delegated to it under the House Rules, including as described above.

The oversight and legislative purposes of the investigation at issue here, described more fully immediately below, include (1) to evaluate decisions made by the Internal Revenue Service regarding the inappropriate treatment of conservative applicants for tax-exempt status; and (2) to assess, based on the findings of the investigation, whether the conduct uncovered may warrant additions or modifications to federal law, including, but not limited to, a possible restructuring of the Internal Revenue Service and the IRS Oversight Board.

## III. BACKGROUND ON THE COMMITTEE'S INVESTIGATION

In February 2012, the Committee received reports that the Internal Revenue Service inappropriately scrutinized certain applicants for 501(c)(4) tax-exempt status. Since that time, the Committee has reviewed nearly 500,000 pages of documents obtained from (i) the Department of the Treasury, including particular component entities, the IRS, the Treasury Inspector General for Tax Administration (TIGTA), and the IRS Oversight Board, (ii) former and current IRS employees, and (iii) other sources. In addition, the Committee has conducted 33 transcribed interviews of current and former IRS officials, ranging from front-line employees in the IRS's Cincinnati office to the former Commissioner of the IRS.

Documents and testimony reveal that the IRS targeted conservative-aligned applicants for tax-exempt status by scrutinizing them in a manner distinct—and more intrusive—than other applicants. Critical questions remain regarding the extent of this targeting, and how and why the IRS acted—and persisted in acting—in this manner.

### A. IRS Targeting of Tea Party Tax-Exempt Applications

In late February 2010, a screener in the IRS's Cincinnati office identified a 501(c)(4) application connected with the Tea Party. Due to ''media attention'' surrounding the Tea Party, the application was elevated to the Exempt Organizations Technical Unit in Washington, D.C.[9] When officials in the Cincinnati office discovered several similar applications in March 2010, the Washington, D.C. office asked for two ''test'' applications, and ordered the Cincinnati employees to ''hold'' the remainder of the applications.[10] A manager in the Cincinnati office asked his screeners to develop criteria for identifying other Tea Party applications so that the applications would not ''go into the general inventory.''[11] By early April 2010, Cincinnati screeners began to identify and hold any applications meeting certain criteria. Applications that met the criteria were removed from the general inventory and assigned to a special group.

In late spring 2010, an individual recognized as an expert in 501(c)(4) applications in the Washington office was assigned to work on the test applications. The expert issued letters to the test applicants asking for additional information or clarification about information provided in their applications.[12] Meanwhile, through the summer and into fall 2010, applications from other conservative-aligned groups idled. As the Cincinnati office awaited guidance from Washington regarding those applications, a backlog developed. By fall 2010, the backlog of applications that had stalled in the Cincinnati office had grown to 60.

On February 1, 2011, Lois G. Lerner, who served as Director of Exempt Organizations (EO) at IRS from 2006 to 2013,[13] wrote an e-mail to Michael Seto, the manager of the Technical Office within the Exempt Organizations business division. The EO Technical Office was staffed by approximately 40 IRS lawyers who offered advice to IRS agents across the country. Ms. Lerner wrote, ''Tea Party Matter very dangerous'' and ordered the Office of Chief Counsel to get involved.[14] Ms. Lerner advocated for pulling the cases out of the Cincinnati office entirely. She advised Seto that ''Cincy should probably NOT have these cases.''[15] Seto testified to the Committee that Ms. Lerner ordered a ''multi-tier'' review for the test applications, a process that involved her senior technical advisor and the Office of Chief Counsel.[16]

On July 5, 2011, Ms. Lerner became aware that the backlog of Tea Party applications pending in Cincinnati had swelled to ''over 100.''[17] Ms. Lerner also learned of the specific criteria that were used to screen the cases that were caught in the backlog.[18] She believed that the term ''Tea Party''—which was a term that triggered additional scrutiny under the criteria developed by IRS personnel—was ''pejorative.''[19] Ms. Lerner ordered her staff to adjust the criteria.[20] She also directed the Technical Unit to conduct a ''triage'' of the backlogged applications and to develop a guide sheet to assist agents in Cincinnati with processing the cases.[21]

In November 2011, the draft guide sheet for processing the backlogged applications was complete.[22] By this point, there were 160–170 pending applications in the backlog.[23] After the Cincinnati office received the guide sheet from Washington, officials there began to process the applications in January 2012. IRS employees drafted questions for the applicant organizations designed to solicit information mandated by the guide sheet. The questions asked for information about the applicant organizations' donors, among other things.[24]

By early 2012, questions about the IRS's treatment of these backlogged applications had attracted public attention. Staff from the Committee on Oversight and Government Reform met with Ms. Lerner in February 2012 regarding the IRS's process for evaluating tax-exempt applications.[25] Committee staff then met with TIGTA representatives on March 8, 2012.[26] Shortly thereafter, TIGTA began an audit of the IRS's process for evaluating tax-exempt applications.

In late February 2012, after Ms. Lerner briefed Committee staff, Steven Miller, then the IRS Deputy Commissioner, requested a meeting with her to discuss these applications. She informed him of the backlog of applications and that the IRS had asked applicant organizations about donor information.[27] Miller relayed this information to IRS Commissioner Douglas Schulman.[28] On March 23, 2012, Miller convened a meeting of his senior staff to discuss these applications. Miller launched an internal review of potential inappropriate treatment of Tea Party

501(c)(4) applications ''to find out why the cases were there and what was going on.''[29]

The internal IRS review took place in April 2012. Miller realized there was a problem and that the application backlog needed to be addressed.[30] IRS officials designed a new system to process the backlog, and Miller received weekly updates on the progress of the backlog throughout the summer 2012.[31]

In May 2013, in advance of the release of TIGTA's audit report on the IRS's process for evaluating applications for tax-exempt status, the IRS sought to acknowledge publicly that certain tax-exempt applications had been inappropriately targeted.[32] On May 10, 2013, at an event sponsored by the American Bar Association, Ms. Lerner responded to a question she had planted with a member of the audience prior to the event. A veteran tax lawyer asked, ''Lois, a few months ago there were some concerns about the IRS's review of 501(c)(4) organizations, of applications from tea party organizations. I was just wondering if you could provide an update.''[33] In response, Ms. Lerner stated:

So our line people in Cincinnati who handled the applications did what we call centralization of these cases. They centralized work on these in one particular group. . . . However, in these cases, the way they did the centralization was not so fine. Instead of referring to the cases as advocacy cases, they actually used case names on this list. They used names like Tea Party or Patriots and they selected cases simply because the applications had those names in the title. That was wrong, that was absolutely incorrect, insensitive, and inappropriate—that's not how we go about selecting cases for further review. We don't select for review because they have a particular name.[34]

Ms. Lerner's statement during the ABA panel, entitled ''News from the IRS and Treasury,'' was the first public acknowledgement that the IRS had inappropriately scrutinized the applications of conservative-aligned groups. Within days, the President and the Attorney General expressed serious concerns about the IRS's actions. The Attorney General announced a Justice Department investigation.[35]

B. Lois Lerner's Testimony Is Critical to the Committee's Investigation

Lois Lerner's testimony is critical to the Committee's investigation. Without her testimony, the full extent of the IRS's targeting of Tea Party applications cannot be known, and the Committee will be unable to fully complete its work.

Ms. Lerner was, during the relevant time period, the Director of the Exempt Organizations business division of the IRS, where the targeting of these applications occurred. The Exempt Organizations business division contains the two IRS units that were responsible for executing the targeting program: the Exempt Organizations Determinations Unit in Cincinnati, and the Exempt Organizations Technical Unit in Washington, D.C.

Ms. Lerner has not provided the Committee with any testimony since the release of the TIGTA audit in May 2013. Although the Committee staff has conducted transcribed interviews of dozens of IRS officials in Cincinnati and Washington, D.C., the Committee will never be able to understand the IRS's actions fully without her testimony. She has unique, first-hand knowledge of how, and why, the IRS scrutinized applications for tax-exempt status from certain conservative-aligned groups.

The IRS sent letters to 501(c)(4) application organizations, signed by Ms. Lerner, that included questions about the organizations' donors. These letters went to applicant organizations that had met certain criteria. As noted, Ms. Lerner later described the selection of these applicant organizations as ''wrong, [] absolutely incorrect, insensitive, and inappropriate.''[36]

Documents and testimony from other witnesses show Ms. Lerner's testimony is critical to the Committee's investigation. She was at the epicenter of the targeting program. As the Director of the Exempt Organizations business division, she interacted with a wide array of IRS personnel, from low-level managers all the way up to the Deputy Commissioner. Only Ms. Lerner can resolve conflicting testimony about why the IRS delayed 501(c)(4) applications, and why the agency asked the applicant organizations inappropriate and invasive questions. Only she can answer important outstanding questions that are key to the Committee's investigation.

## IV. LOIS LERNER'S REFUSAL TO COMPLY WITH THE COMMITTEE'S SUBPOENA FOR TESTIMONY AT THE MAY 22, 2013 HEARING

On May 14, 2013, Chairman Issa sent a letter to Ms. Lerner inviting her to testify at a hearing on May 22, 2013, about the IRS's handling of certain applications for tax-exempt status.[37] The letter requested that she ''please contact the Committee by May 17, 2013,'' to confirm her attendance.[38] Ms. Lerner, through her attorney, confirmed that she would appear at the hearing.[39] Her attorney subsequently indicated that she would not answer questions during the hearing, and that she would invoke her Fifth Amendment rights.[40]

Because Ms. Lerner would not testify voluntarily at the May 22, 2013 hearing and because her testimony was critical to the Committee's investigation, Chairman Issa authorized a subpoena to compel the testimony. The subpoena was issued on May 20, 2013, and served on her the same day. Ms. Lerner's attorney accepted service on her behalf.[41]

A. Correspondence Leading Up to the Hearing

On May 20, 2013, Ms. Lerner's attorney sent a letter to Chairman Issa stating that she would be invoking her Fifth Amendment right not to answer any questions at the hearing. The letter stated, in relevant part:

You have requested that our client, Lois Lerner, appear at a public hearing on May 22, 2013, to testify regarding the Treasury Inspector General for Tax Administration's (''TIGTA'') report on the Internal Revenue Service's (''IRS'') processing of applications for tax-exempt status. As you know, the Department of Justice has launched a criminal investigation into the matters addressed in the TIGTA report, and your letter to Ms. Lerner dated May 14, 2013, alleges that she 'provided false or misleading information on four separate occasions last year in response to' the Committee's questions about the IRS's processing of applications for tax-exempt status. Accordingly, we are writing to inform you that, upon our advice, Ms. Lerner will exercise her constitutional right not to answer any questions related to the matters addressed in the TIGTA report or to the written and oral exchanges that she had with the Committee in 2012 regarding the IRS's processing of applications for tax-exempt status.

She has not committed any crimes or made any misrepresentation but under the circumstances she has no choice but to take this course. As the Supreme Court has ''emphasized,'' one of the Fifth Amendment's ''basic functions . . . is to protect *innocent* [individuals].'' *Ohio v. Reiner*, 532 U.S. 17, 21 (2001) (quoting *Grunewald v. United States*, 353 U.S. 391, 421 (1957)).

Because Ms. Lerner is invoking her constitutional privilege, we respectfully request that you excuse her from appearing at the hearing. . . . Because Ms. Lerner will exercise her right not to answer questions related to the matters discussed in the TIGTA report or to her prior exchanges with the Committee, requiring her to appear at the hearing merely to assert her Fifth Amendment privilege would have no purpose other than to embarrass or burden her.[42]

The following day, after issuing the subpoena to compel Ms. Lerner to appear before the Committee, Chairman Issa responded to her attorney. Chairman Issa stated, in relevant part:

I write to advise you that the subpoena you accepted on Ms. Lerner's behalf remains in effect. The subpoena compels Ms. Lerner to appear before the Committee on May 22, 2013, at 9:30 a.m.

According to your May 20, 2013, letter, 'requiring [Ms. Lerner] to appear at the hearing merely to assert her Fifth Amendment privilege would have no purpose other than to embarrass or burden her.' That is not correct. As Director, Exempt Organizations, Tax Exempt and Government Entities Division, of the Internal Revenue Service, Ms. Lerner is uniquely qualified to answer questions about the issues raised in the aforementioned TIGTA report. The Committee invited her to appear with the expectation that her testimony will advance the Committee's investigation, which seeks information about the IRS's questionable practices in processing and approving applications for 501(c)(4) tax exempt status. *The Committee requires Ms. Lerner's appearance because of, among other reasons, the possibility that she will waive or choose not to assert the privilege as to at least certain questions of interest to the Committee;* the possibility that the Committee will immunize her testimony pursuant to 18 U.S.C. §6005; and the possibility that the Committee will agree to hear her testimony in executive session.[43]

B. Lois Lerner's Opening Statement

Chairman Issa's letter to Ms. Lerner's attorney on May 22, 2013 raised the possibility that she would waive or choose not to assert her privilege as to at least certain questions of interest to the Committee.[44] In fact, that is exactly what happened. At the hearing, Ms. Lerner made a voluntary opening statement, of which she had provided the Committee no advance notice, notwithstanding Committee rules requiring that she do so.[45] She stated, after swearing an oath to tell ''the truth, the whole truth, and nothing but the truth'':

Good morning, Mr. Chairman and members of the Committee. My name is Lois Lerner, and I'm the Director of Exempt Organizations at the Internal Revenue Service.

I have been a government employee for over 34 years. I initially practiced law at the Department of Justice and later at the Federal Election Commission. In 2001, I became—I moved to the IRS to work in the Exempt Organizations office, and in 2006, I was promoted to be the Director of that office.

Exempt Organizations oversees about 1.6 million tax-exempt organizations and processes over 60,000 applications for tax exemption every year. As Director I'm responsible for about 900 employees nationwide, and administer a budget of almost $100 million. My professional career has been devoted to fulfilling responsibilities of the agencies for which I have worked, and I am very proud of the work that I have done in government.

On May 14th, the Treasury inspector general released a report finding that the Exempt Organizations field office in Cincinnati, Ohio, used inappropriate criteria to identify for further review applications for organizations that planned to engage in political activity which may mean that they did not

qualify for tax exemption. On that same day, the Department of Justice launched an investigation into the matters described in the inspector general's report. In addition, members of this committee have accused me of providing false information when I responded to questions about the IRS processing of applications for tax exemption.

*I have not done anything wrong. I have not broken any laws. I have not violated any IRS rules or regulations, and I have not provided false information to this or any other congressional committee.*

And while I would very much like to answer the Committee's questions today, I've been advised by my counsel to assert my constitutional right not to testify or answer questions related to the subject matter of this hearing. After very careful consideration, I have decided to follow my counsel's advice and not testify or answer any of the questions today.

Because I'm asserting my right not to testify, I know that some people will assume that I've done something wrong. I have not. One of the basic functions of the Fifth Amendment is to protect innocent individuals, and that is the protection I'm invoking today. Thank you.[46]

After Ms. Lerner made this voluntary, self-selected opening statement—which included a proclamation that she had done nothing wrong and broken no laws, Chairman Issa explained that he believed she had waived her right to assert a Fifth Amendment privilege and asked her to reconsider her position on testifying.[47] In response, she stated:

I will not answer any questions or testify about the subject matter of this Committee's meeting.[48]

Upon Ms. Lerner's refusal to answer any questions, Congressman Trey Gowdy made a statement from the dais. He said:

Mr. Issa, Mr. Cummings just said we should run this like a courtroom, and I agree with him. She just testified. She just waived her Fifth Amendment right to privilege. *You don't get to tell your side of the story and then not be subjected to cross examination. That's not the way it works.* She waived her right of Fifth Amendment privilege by issuing an opening statement. *She ought to stay in here and answer our questions.*[49]

Shortly after Congressman Gowdy's statement, Chairman Issa excused Ms. Lerner from the panel and reserved the option to recall her as a witness at a later date. Specifically, Chairman Issa stated that she was excused ''subject to recall after we seek specific counsel on the questions of whether or not the constitutional right of the Fifth Amendment has been properly waived.'' [50]

Rather than adjourning the hearing on May 22, 2013, the Chairman recessed it, in order to reconvene at a later date after a thorough analysis of Ms. Lerner's actions. He did so to avoid ''mak[ing] a quick or uninformed decision'' regarding what had transpired.[51]

C. THE COMMITTEE RESOLVED THAT LOIS LERNER WAIVED HER FIFTH AMENDMENT PRIVILEGE

On June 28, 2013, Chairman Issa convened a Committee business meeting to allow the Committee to determine whether Ms. Lerner had in fact waived her Fifth Amendment privilege. After reviewing during the intervening five weeks legal analysis provided by the Office of General Counsel, arguments presented by Ms. Lerner's counsel, and other relevant legal precedent, Chairman Issa concluded that Ms. Lerner waived her constitutional privilege when she made a voluntary opening statement that involved several specific denials of various allegations.[52] Chairman Issa stated:

Having now considered the facts and arguments, I believe Lois Lerner waived her Fifth Amendment privileges. She did so when she chose to make a voluntary opening statement. Ms. Lerner's opening statement referenced the Treasury IG report, and the Department of Justice investigation . . . and the assertions that she had previously provided false information to the committee. She made four specific denials. Those denials are at the core of the committee's investigation in this matter. She stated that she had not done anything wrong, not broken any laws, not violated any IRS rules or regulations, and not provided false information to this or any other congressional committee regarding areas about which committee members would have liked to ask her questions. Indeed, committee members are still interested in hearing from her. Her statement covers almost the entire range of questions we wanted to ask when the hearing began on May 22.[53]

After a lengthy debate, the Committee approved a resolution, by a 22–17 vote, which stated as follows:

[T]he Committee on Oversight and Government Reform determines that the voluntary statement offered by Ms. Lerner constituted a waiver of her Fifth Amendment privilege against self-incrimination as to all questions within the subject matter of the Committee hearing that began on May 22, 2013, including questions relating to (i) Ms. Lerner's knowledge of any targeting by the Internal Revenue Service of particular groups seeking tax exempt status, and (ii) questions relating to any facts or information that would support or refute her assertions that, in that regard, ''she has not done anything wrong,'' ''not broken any laws,'' ''not violated any IRS rules or regulations,'' and/or ''not provided false information to this or any other congressional committee.'' [54]

D. LOIS LERNER CONTINUED TO DEFY THE COMMITTEE'S SUBPOENA

Following the Committee's resolution that Ms. Lerner waived her Fifth Amendment privilege, Chairman Issa recalled her to testify before the Committee. On February 25, 2014, Chairman Issa sent a letter to Ms. Lerner's attorney advising him that the May 22, 2013 hearing would reconvene on March 5, 2014.[55] The letter also advised that the subpoena that compelled her to appear on May 22, 2013 remained in effect.[56] The letter stated, in relevant part:

Ms. Lerner's testimony remains critical to the Committee's investigation . . . . Because Ms. Lerner's testimony will advance the Committee's investigation, the Committee is recalling her to a continuation of the May 22, 2013, hearing, on March 5, 2014, at 9:30 a.m. in room 2154 of the Rayburn House Office Building in Washington, D.C.

The subpoena you accepted on Ms. Lerner's behalf remains in effect. In light of this fact, and because the Committee explicitly rejected her Fifth Amendment privilege claim, I expect her to provide answers when the hearing reconvenes on March 5.[57]

The next day, Ms. Lerner's attorney responded to Chairman Issa. In a letter, he wrote:

I write in response to your letter of yesterday. I was surprised to receive it. I met with the majority staff of the Committee on January 24, 2014, at their request. At the meeting, I advised them that Ms. Lerner would continue to assert her Constitutional rights not to testify if she were recalled. . . . We understand that the Committee voted that she had waived her rights. . . . We therefore request that the Committee not require Ms. Lerner to attend a hearing solely for the purpose of once again invoking her rights.[58]

Because of the possibility that she would choose to answer some or all of the Committee's questions, Chairman Issa required Ms. Lerner to appear in person on March 5, 2014. When the May 22, 2013, hearing, entitled ''The IRS: Targeting Americans for Their Political Beliefs,'' was reconvened, Chairman Issa noted that the Committee might recommend that the House hold Ms. Lerner in contempt if she continued to refuse to answer questions, based on the fact that the Committee had resolved that she had waived her Fifth Amendment privilege. He stated:

At a business meeting on June 28, 2013, the Committee approved a resolution rejecting Ms. Lerner's claim of Fifth Amendment privilege based on her waiver at the May 22, 2013, hearing.

After that vote, having made the determination that Ms. Lerner waived her Fifth Amendment rights, the Committee recalled her to appear today to answer questions pursuant to rules. The Committee voted and found that Ms. Lerner waived her Fifth Amendment rights by making a statement on May 22, 2013, and additionally, by affirming documents after making a statement of Fifth Amendment rights.

If Ms. Lerner continues to refuse to answer questions from our Members while she's under subpoena, the Committee may proceed to consider whether she should be held in contempt.[59]

Despite the fact that Ms. Lerner was compelled by a duly issued subpoena and Chairman Issa had warned her of the possibility of contempt proceedings, and despite the Committee's resolution that she waived her Fifth Amendment privilege, Ms. Lerner continued to assert her Fifth Amendment privilege, and refused to answer any questions posed by Members of the Committee.

Specifically, Ms. Lerner asserted her Fifth Amendment privilege on eight separate occasions at the hearing. In response to questions from Chairman Issa, she stated:

Q. On October 10—on October—in October 2010, you told a Duke University group, and I quote, 'The Supreme Court dealt a huge blow overturning a 100-year-old precedent that basically corporations couldn't give directly to political campaigns. And everyone is up in arms because they don't like it. The Federal Election Commission can't do anything about it. They want the IRS to fix the problem.' Ms. Lerner, what exactly 'wanted to fix the problem caused by Citizens United,' what exactly does that mean?

A. My counsel has advised me that I have not——

Q. Would you please turn the mic on?

A. Sorry. I don't know how. My counsel has advised me that I have not waived my constitutional rights under the Fifth Amendment, and on his advice, I will decline to answer any question on the subject matter of this hearing.

Q. So, you are not going to tell us who wanted to fix the problem caused by Citizens United?

A. On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question.

Q. Ms. Lerner, in February 2011, you emailed your colleagues in the IRS the following: 'Tea Party matter, very dangerous. This could be the vehicle to go to court on the issue of whether Citizens United overturning the ban on corporate spending applies to tax-exempt rules. Counsel and Judy Kindell need to be on this one, please. Cincy should probably NOT,' all in caps, 'have these cases.' What did you mean by 'Cincy should not have these cases'?

A. On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer the question.

Q. Ms. Lerner, why would you say Tea Party cases were very dangerous?

A. On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question.

Q. Ms. Lerner, in September 2010, you emailed your subordinates about initiating a, parenthesis, (c)(4) project and wrote, 'We need to be cautious so that it isn't a per se 'political project.' Why were you worried about this being perceived as a political project?

A. On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question.

Q. Ms. Lerner, Mike Seto, manager of EO Technical in Washington, testified that you ordered Tea Party cases to undergo a multi-tier review. He testified, and I quote, 'She sent me email saying that when these cases need to go through'—I say again—'she sent me email saying that when these cases need to go through multi-tier review and they will eventually have to go to Ms. Kindell and the Chief Counsel's Office.' Why did you order Tea Party cases to undergo a multi-tier review?

A. On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question.

Q. Ms. Lerner, in June 2011, you requested that Holly Paz obtain a copy of the tax-exempt application filed by Crossroads GPS so that your senior technical advisor, Judy Kindell, could review it and summarize the issues for you. Ms. Lerner, why did you want to personally order that they pull Crossroads GPS, Karl Rove's organization's application?

A. On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question.

Q. Ms. Lerner, in June 2012, you were part of an email exchange that appeared to be about writing new regulations on political speech for 501(c)(4) groups, and in parenthesis, your quote, ''off plan'' in 2013. Ms. Lerner, what does ''off plan'' mean?

A. On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question.

Q. Ms. Lerner, in February of 2014, President Obama stated that there was not a smidgeon of corruption in the IRS targeting. Ms. Lerner, do you believe that there is not a smidgeon of corruption in the IRS targeting of conservatives?

A. On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question.

Q. Ms. Lerner, on Saturday, our committee's general counsel sent an email to your attorney saying, ''I understand that Ms. Lerner is willing to testify and she is requesting a 1 week delay. In talking—in talking to the chairman''—excuse me—''in talking to the chairman, wanted to make sure that was right.'' Your lawyer, in response to that question, gave a one word email response, ''yes.'' Are you still seeking a 1 week delay in order to testify?

A. On the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question.[60]

The hearing was subsequently adjourned and Ms. Lerner was excused from the hearing room.

E. LEGAL PRECEDENT STRONGLY SUPPORTS THE COMMITTEE'S POSITION TO PROCEED WITH HOLDING LOIS LERNER IN CONTEMPT

After Ms. Lerner's appearance before the Committee on March 5, 2014, her lawyer convened a press conference at which he apparently revealed that she had sat for an interview with Department of Justice prosecutors and TIGTA staff within the past six months.[61] According to reports, Ms. Lerner's lawyer described that interview as not under oath[62] and unconditional, i.e., provided under no grant of immunity.[63] Revelation of this interview calls into question the basis of Ms. Lerner's assertion of the Fifth Amendment privilege in the first place, her waiver of any such privilege notwithstanding.

Despite that fact, and the balance of the record, Ranking Member Elijah E. Cummings questioned the Committee's ability to proceed with a contempt citation for Ms. Lerner. On March 12, 2014, he sent a letter to Speaker Boehner arguing that the House of Representatives is barred ''from successfully pursuing contempt proceedings against former IRS official Lois Lerner.''[64] The Ranking Member's position was based on an allegedly ''independent legal analysis'' provided by his lawyer, Stanley M. Brand, and his ''Legislative Consultant,'' Morton Rosenberg.[65]

Brand and Rosenberg claimed that the prospect of judicial contempt proceedings against Ms. Lerner has been compromised because, according to them, ''at no stage in this proceeding did the witness receive the requisite clear rejections of her constitutional objections and direct demands for answers nor was it made unequivocally certain that her failure to respond would result in criminal contempt prosecution.''[66] The Ranking Member subsequently issued a press release that described ''opinions from 25 legal experts across the country and the political spectrum''[67] regarding the Committee's interactions with Ms. Lerner. The opinions released by Ranking Member Cummings largely relied on the same case law and analysis that Rosenberg and Brand provided, and are contrary to the opinion of the House Office of General Counsel.[68] The Ranking Member and his lawyers and consultants are wrong on the facts and the law.

*1. Ms. Lerner knew that the Committee had rejected her privilege objection and that, consequently, she risked contempt should she persist in refusing to answer the Committee's questions*

At the March 5, 2014 proceeding, Chairman Issa specifically made Ms. Lerner and her counsel aware of developments that had occurred since the Committee first convened the hearing (on May 22, 2013): ''These [developments] are important for the record and for Ms. Lerner to know and understand.''[69]

Chairman Issa emphasized one particular development: ''At a business meeting on June 28, 2013, the committee approved a resolution **rejecting Ms. Lerner's claim of Fifth Amendment privilege** based on her waiver.''[70] This, of course, was not news to Ms. Lerner or her counsel. The Committee had expressly notified her counsel of the Committee's rejection of her Fifth Amendment claim, both orally and in writing. For example, in a letter to Ms. Lerner's counsel on February 25, 2014, the Chairman wrote: ''[B]ecause the Committee explicitly **rejected [Lerner's] Fifth Amendment privilege claim,** I expect her to provide answers when the hearing reconvenes on March 5.''[71] Moreover, the press widely reported the fact that the Committee had formally rejected Ms. Lerner's Fifth Amendment claim.[72]

Accordingly, it is facially unreasonable for Ranking Member Cummings and his lawyers and consultants to subsequently claim that ''at no stage in this proceeding did the witness receive the requisite clear rejections of her constitutional objections.''[73]

The Committee's rejection of Ms. Lerner's privilege objection was not the only point that Chairman Issa emphasized before and during the March 5, 2014 proceeding. At the hearing, after several additional references to the Committee's determination that she had waived her privilege objection, the Chairman *expressly* warned her that she remained under subpoena,[74] and thus that, if she should persist in refusing to answer the Committee's questions, she risked contempt: ''If Ms. Lerner continues to refuse to answer questions from our Members while she is under a subpoena, the Committee may proceed to consider whether she should be held in contempt.''[75]

Ranking Member Cummings and his lawyers and consultants state, repeatedly, that the Committee did not provide ''certainty for the witness and her counsel that a contempt prosecution was inevitable.''[76] But, that is a certainty that no Member of the Committee can provide. From the Committee's perspective (and Ms. Lerner's), there is no guarantee that the Department of Justice will prosecute Ms. Lerner for her contumacious conduct, and there is no guarantee that the full House of Representatives will vote to hold her in contempt. In fact, there is no guarantee that the Committee will make such a recommendation. The collective votes of Members voting their consciences determine both a Committee recommendation and a full House vote on a contempt resolution. And, the Department of Justice, of course, is an agency of the Executive Branch of the federal government. All the Chairman can do is what he did: make abundantly clear to Ms. Lerner and her counsel that of which she already was aware, i.e., that if she chose not to answer the Committee's questions after the Committee's ruling that she had waived her privilege objection (exactly the choice that she ultimately made), she would risk contempt.

*2. The Law does not require magic words*

The Ranking Member and his lawyers and consultants also misunderstand the law. Contrary to their insistence, the courts do not require the invocation by the Committee of certain magic words. Rather, and sensibly, the courts have required only that congressional committees provide witnesses with a ''fair appraisal of the committee's ruling on an objection,'' thereby leaving the witness with a choice: comply with the relevant committee's demand for testimony, or risk contempt.[77]

The Ranking Member and his lawyers and consultants refer specifically to *Quinn* v. *United States* in support of their arguments. In that case, however, the Supreme Court held only that, because ''[a]t no time did the committee [at issue there] specifically overrule [the witness's] objection based on the Fifth Amendment,'' the witness ''was left to guess whether or not the committee had accepted his objection.''[78] Here, of course, the Committee expressly rejected Ms. Lerner's objection, and specifically notified Ms. Lerner and her counsel of the same. She was left to guess at nothing.

The Ranking Member and his lawyers' and consultants' reliance on *Quinn* is odd for at least two additional reasons. First, in that case, the Supreme Court expressly noted that the congressional committee's failure to rule on the witness's objection mattered because it left the witness without ''a clear-cut choice . . . between answering the question and **risking** prosecution for contempt.''[79] In other words, the Supreme Court expressly rejected the Ranking Member's view that the Chairman should do the impossible by pronouncing on whether prosecution is ''inevitable.''[80] The Supreme Court required that the Committee do no more than what it did: advise Ms. Lerner that her objection had been overruled and thus that she risked contempt.

Second, *Quinn* expressly rejects the Ranking Member's insistence on the talismanic incantation by the Committee of certain magic words. The Supreme Court wrote that ''the committee is not required to resort to

any fixed verbal formula to indicate its disposition of the objection. So long as the witness is not forced to guess the committee's ruling, he has no cause to complain.'' [81]

The other cases that the Ranking Member and his lawyers and consultants cite state the same law, and thus serve to confirm the propriety of the Committee's actions. In *Emspak* v. *United States*, the Supreme Court—just as in *Quinn*, and unlike here—noted that the congressional committee had failed to ''overrule petitioner's objection based on the Fifth Amendment'' and thus failed to provide the witness a fair opportunity to choose between answering the relevant question and ''risking prosecution for contempt.'' [82] And in *Bart* v. *United States*, the Supreme Court pointedly distinguished the circumstances there from those here. The Court wrote: ''Because of the consistent failure to advise the witness of the committee's position as to his objections, petitioner was left to speculate about the risk of possible prosecution for contempt; he was not given a clear choice between standing on his objection and compliance with a committee ruling.'' [83]

## V. CONCLUSION

For all these reasons, and others, Rosenberg's opinion that ''the requisite legal foundation for a criminal contempt of Congress prosecution [against Ms. Lerner] . . . ha[ s] not been met and that such a proceeding against [her] under 2 U.S.C. [§] 19[2], if attempted, will be dismissed'' is wrong.[84] There is no constitutional impediment to (i) the Committee approving a resolution recommending that the full House hold Ms. Lerner in contempt of Congress; (ii) the full House approving a resolution holding Ms. Lerner in contempt of Congress; (iii) if such resolutions are approved, the Speaker certifying the matter to the United States Attorney for the District of Columbia, pursuant to 2 U.S.C. §194; and (iv) a grand jury indicting, and the United States Attorney prosecuting, Ms. Lerner under 2 U.S.C. §192.

At this point, it is clear Ms. Lerner will not comply with the Committee's subpoena for testimony. On May 20, 2013, Chairman Issa issued the subpoena to compel Ms. Lerner's testimony. On May 22, 2013, Ms. Lerner gave an opening statement and then refused to answer any of the Committee's questions and asserted her Fifth Amendment privilege. On June 28, 2013, the Committee voted that Ms. Lerner waived her Fifth Amendment privilege. Chairman Issa subsequently recalled her to answer the Committee's questions. When the May 22, 2013 hearing reconvened nine months later, on March 5, 2014, she again refused to answer any of the Committee's questions and invoked the Fifth Amendment.

In short, Ms. Lerner has refused to provide testimony in response to the Committee's duly issued subpoena.

## VI. RULES REQUIREMENTS

### EXPLANATION OF AMENDMENTS

No amendments were offered.

### COMMITTEE CONSIDERATION

On April 10, 2014, the Committee on Oversight and Government Reform met in open session with a quorum present to consider a report of contempt against Lois G. Lerner, former Director, Exempt Organizations, Internal Revenue Service, for failure to comply with a Congressional subpoena. The Committee approved the Report by a roll call vote of 21–12 and ordered the Report reported favorably to the House.

### ROLL CALL VOTES

The following recorded votes were taken during consideration of the contempt Report:

The Report was favorably reported to the House, a quorum being present, by a vote of 23 Yeas to 17 Nays.

Voting Yea: Issa, Mica, Turner, McHenry, Jordan, Chaffetz, Walberg, Lankford, Amash, Gosar, Meehan, DesJarlais, Gowdy, Farenthold, Hastings, Lummis, Massie, Collins, Meadows, Bentivolio, DeSantis.

Voting Nay: Cummings, Maloney, Clay, Lynch, Cooper, Connolly, Speier, Cartwright, Duckworth, Welch, Horsford, Lujan Grisham.

### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. The Report recommends that the House of Representatives find Lois G. Lerner, former Director, Exempt Organizations, Internal Revenue Service, in contempt of Congress for refusal to comply with a subpoena duly issued by the Committee on Oversight and Government Reform. As such, the Report does not relate to employment or access to public services and accommodations.

### STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this Report.

### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Report will assist the House of Representatives in considering whether to cite Lois G. Lerner for contempt for failing to comply with a valid congressional subpoena.

### DUPLICATION OF FEDERAL PROGRAMS

No provision of the Report establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

### DISCLOSURE OF DIRECTED RULE MAKINGS

The Report does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

### CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the authority for this Report in article 1, section 1 of the Constitution.

### FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the Report does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

### EARMARK IDENTIFICATION

The Report does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

### UNFUNDED MANDATE STATEMENT, COMMITTEE ESTIMATE, BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee finds that clauses 3(c)(2), 3(c)(3), and 3(d)(1) of rule XIII of the Rules of the House of Representatives, sections 308(a) and 402 of the Congressional Budget Act of 1974, and section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) are inapplicable to this Report. Therefore, the Committee did not request or receive a cost estimate from the Congressional Budget Office and makes no findings as to the budgetary impacts of this Report or costs incurred to carry out the report.

### CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

This Report makes no changes in any existing federal statute.

### ENDNOTES

1. *McGrain* v. *Daugherty*, 273 U.S. 135, 174 (1927).
2. *Watkins* v. *United States*, 354 U.S. 178, 1887 (1957).
3. U.S. CONST., art I. §5, clause 2.
4. House Rule X, clause (1)(n).
5. House Rule X, clause (4)(c)(2).
6. *Id*.
7. House Rule XI, clause (2)(m)(1)(B).
8. House Rule XI, clause 2(m)(3)(A)(1).
9. E-mail from Cindy Thomas, Manager, Exempt Organizations Determinations, IRS, to Holly Paz, Manager, Exempt Organizations Technical Unit, IRS (Feb. 25, 2010) [IRSR 428451].
10. Transcribed Interview of Elizabeth Hofacre, Revenue Agent, Exempt Orgs. Determinations Unit, IRS (May 31, 2013).
11. Transcribed Interview of John Shafer, Group Manager, Exempt Orgs. Determinations Unit, IRS (June 6, 2013).
12. IRS, Timeline for the 3 exemption applications that were referred to EOT from EOD. [IRSR 58346–49]
13. *See The IRS: Targeting Americans for Their Political Beliefs: Hearing before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. 22 (May 22, 2013) (H. Rpt. 113–33) (statement of Lois Lerner, Director, Exempt Orgs., IRS) (emphasis added).
14. E-mail from Lois Lerner, Director, Exempt Orgs., IRS to Michael Seto, Manager, Exempt Orgs. Technical Unit, IRS (Feb. 1, 2011) [IRSR 161810].
15. *Id*.
16. Transcribed Interview of Michael Seto, Manager, Exempt Orgs. Technical Unit, IRS (July 11, 2013) [hereinafter Seto Interview].
17. Transcribed Interview of Justin Lowe, Technical Advisor to the Commissioner, Tax Exempt and Gov't Entities Division, IRS (July 23, 2013).
18. *Id*.
19. Transcribed Interview of Holly Paz, Director, Exempt Orgs., Rulings and Agreements, IRS (May 21, 2013).
20. Id.
21. Seto Interview, *supra* note 6.
22. E-mail from Michael Seto, Manager, Exempt Orgs. Technical Unit, IRS, to Cindy Thomas, Manager, Exempt Orgs. Determinations Unit, IRS (Nov. 6, 2011) [IRSR 69902].
23. Transcribed Interview of Stephen Daejin Seok, Group Manager, Exempt Orgs. Determinations Unit, IRS (June 19, 2013).
24. *Id*.
25. Briefing by Lois Lerner, Director, Exempt Orgs., IRS, to H. Comm. on Oversight & Gov't Reform Staff (Feb. 24, 2012).
26. Treasury Inspector Gen. for Tax Admin., What is the timeline for TIGTA's involvement with this tax-exempt issue? (provided to the Committee May 2013).
27. Transcribed Interview of Steven Miller, Deputy Commissioner, IRS (Nov. 13, 2013) [hereinafter Miller Interview].
28. *Id*.
29. *Id*.
30. *Id*.
31. *Id*.
32. E-mail from Nicole Flax, Chief of Staff to the Deputy Commissioner, IRS, to Lois Lerner, Director, Exempt Orgs., IRS (Apr. 23, 2013) [IRSR 189013]; Miller Interview, *supra* note 16; Transcribed Interview of Sharon Light, Senior Technical Advisor to the Director, Exempt Orgs., IRS (Sept. 5, 2013); E-

mail from Nicole Flax, Chief of Staff to the Deputy Commissioner, IRS, to Adewale Adeyemo, Dept. of the Treasury (Apr. 22, 2013) [IRSR 466707].

33. Eric Lach, *IRS Official's Admission Baffled Audience at Tax Panel*, TALKING POINTS MEMO, May 14, 2013.

34. Rick Hasen, *Transcript of Lois Lerner's Remarks at Tax Meeting Sparking IRS Controversy*, ELECTION LAW BLOG (May 11, 2013, 7:37 a.m.), http://electionlawblog.org/?p=50160.

35. *Holder launches probe into IRS targeting of Tea Party groups*, FOXNEWS.COM, May 14, 2013.

36. Rick Hasen, *Transcript of Lois Lerner's Remarks at Tax Meeting Sparking IRS Controversy*, ELECTION LAW BLOG (May 11, 2013, 7:37 AM), http://electionlawblog.org/?p=50160.

37. Letter from Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform, to Lois Lerner, Director, Exempt Orgs., IRS (May 14, 2013) (letter inviting Lerner to testify at May 22, 2013 hearing).

38. *Id.*

39. E-mail from William W. Taylor, III, Zuckerman Spaeder LLP, to H. Comm. on Oversight & Gov't Reform Majority Staff (May 17, 2013).

40. Letter from William W. Taylor, III, Zuckerman Spaeder LLP, to Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform (May 20, 2013).

41. E-mail from William W. Taylor, III, Zuckerman Spaeder LLP, to H. Comm. on Oversight & Gov't Reform Majority Staff (May 20, 2013).

42. Letter from William W. Taylor, III, Zuckerman Spaeder LLP, to Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform (May 20, 2013).

43. Letter from Hon. Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform to William W. Taylor, III, Zuckerman Spaeder LLP (May 21, 2013) (emphasis added).

44. *Id.*

45. Rule 9(f), Rules of the H. Comm. on Oversight & Gov't Reform, 113th Cong., *available at* http://oversight.house.gov/wp-content/uploads/2013/12/OGR-Committee-Rules-113th-Congress.pdf (last visited April 7, 2014).

46. *The IRS: Targeting Americans for Their Political Beliefs: Hearing before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. 22 (May 22, 2013) (H. Rpt. 113–33) (statement of Lois Lerner, Director, Exempt Orgs., IRS) (emphasis added).

47. *Id.*

48. *Id.*

49. *Id.* (emphasis added).

50. *Id.* at 24.

51. *Business Meeting of the H. Comm. on Oversight & Gov't Reform*, 113th Cong. 4 (June 28, 2013).

52. *Id.*

53. *Id.*

54. Resolution of the H. Comm. on Oversight & Gov't Reform (June 28, 2013), *available at* http://oversight.house.gov/wp-content/uploads/2013/06/Resolution-of-the-Committee-on-Oversight-and-Government-Reform-6-28-131.pdf.

55. Letter from Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform to William W. Taylor, III, Zuckerman Spaeder LLP (Feb. 25, 2014).

56. *Id.*

57. *Id.*

58. Letter from William W. Taylor, III, Zuckerman Spaeder LLP, to Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform (Feb. 26, 2014).

59. *The IRS: Targeting Americans for Their Political Beliefs: Hearing before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (Mar. 5, 2014).

60. *Id.*

61. John D. McKinnon, Former *IRS Official Lerner Gave Interview to DOJ*, WALL ST. J., Mar. 6, 2014, http://blogs.wsj.com/washwire/2014/03/06/former-irs-official-lerner-gave-interview-to-doj/.

62. Patrick Howley, *Oversight lawmaker: Holding Lois Lerner in Contempt Is 'Where We're Moving,'* DAILY CALLER, Mar. 6, 2014, http://dailycaller.com/2014/03/06/oversight-lawmaker-holding-lois-lerner-in-contempt-the-right-thing-to-do/.

63. McKinnon, *supra* note 61.

64. Letter from Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight & Gov't Reform, to Hon. John Boehner, Speaker, U.S. House of Representatives (Mar. 12, 2014), at 1[hereinafter Boehner Letter], attaching Memorandum from Morton Rosenberg, Legislative Consultant, to Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight & Gov't Reform (Mar. 12, 2014) [hereinafter Rosenberg Memo].

65. Boehner Letter at 1, Attachment at 1; Statement of Stanley M. Brand, *The Last Word with Lawrence O'Donnell*, MSNBC, Mar. 12, 2014, available at http://www.msnbc.com/the-last-word/watch/the-fatal-error-of-issas-irs-blowup–193652803735 (last visited Mar. 14, 2014).

66. Rosenberg Memo at 3.

67. Press Release, Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight and Gov't Reform (Mar. 26, 2014), available at http://democrats.oversight.house.gov/press-releases/twenty-five-independent-legal-experts-now-agree-that-issa-botched-contempt/ (last visited Mar. 27, 2014).

68. Memorandum, *Lois Lerner and the Rosenberg Memorandum*, Office of General Counsel, United States House of Representatives (Mar. 25, 2014), *available at* http://oversight.house.gov/release/house-counsel-oversight-committee-can-hold-lerner-contempt/ (last visited Apr. 4, 2014).

69. The *IRS: Targeting Americans for Their Political Beliefs: Hearing before the H. Comm. on Oversight and Gov't Reform*, 113th Cong. (Mar. 5, 2014), Tr. at 3.

70. *Id.* at 4 (emphasis added).

71. Letter from Hon. Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform, to William W. Taylor, III, Esq., Zuckerman Spaeder LLP (Feb. 25, 2014), at 2 (emphasis added).

72. *See, e.g.*, *House panel finds IRS official waived Fifth Amendment right, can be forced to testify in targeting probe*, FOXNEWS.COM, June 28, 2013, *available at* http://www.foxnews.com/politics/2013/06/28/republican-led-house-panel-challenges-irs-worker-who-took-fifth-amendment/ (last visited Mar. 14, 2014).

73. Boehner Letter, at 1; Rosenberg Memo at 3.

74. The subpoena to Lerner ''commanded'' her ''to be and appear'' before the Committee and ''to testify.'' Subpoena, Issued by Hon. Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform, to Lois G. Lerner (May 17, 2013) (emphasis in original).

75. *The IRS: Targeting Americans for Their Political Beliefs: Hearing before the H. Comm. on Oversight and Gov't Reform*, 113th Cong. (Mar. 5, 2014), Tr. at 5.

76. *Id.*; Rosenberg Memo at 3–4 (Committee did not make ''unequivocally certain'' that Lerner's ''failure to respond would result in [a] criminal contempt prosecution''); *id.* at 2 (Chairman did not pronounce that ''refusal to respond *would result*'' in a criminal contempt prosecution'') (emphasis added).

77. *Quinn* v. *United States*, 349 U.S. 155, 170 (1955).

78. *Id.* at 166.

79. *Id.* (emphasis added).

80. Boehner Letter, Attachment at 4.

81. 349 U.S. at 170 (emphasis added).

82. 349 U.S. at 190, 202 (1955).

83. 349 U.S. at 219, 223 (1955); *id.* at 222 (stating issue presented as: ''whether petitioner was apprised of the committee's disposition of his objections'').

84. Rosenberg Memo at 4.

## VII. ADDITIONAL VIEWS

## COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
DARRELL ISSA, CHAIRMAN

# LOIS LERNER'S INVOLVEMENT IN THE IRS TARGETING OF TAX-EXEMPT ORGANIZATIONS

STAFF REPORT
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
113TH CONGRESS
MARCH 11, 2014

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## II. Executive Summary

In February 2012, the Committee on Oversight and Government Reform began investigating allegations that the Internal Revenue Service inappropriately scrutinized certain applicants seeking tax-exempt status. Section 501(c)(4) of the Internal Revenue Code permits incorporation of organizations that meet certain criteria and focus on advancing "social welfare" goals.[1] With a 501(c)(4) designation, such organizations are not subject to federal income tax. Donations to these organizations are not tax deductible. Consistent with the Constitutionally protected right to free speech, these organizations – commonly referred to as "501(c)(4)s" – may engage in campaign-related activities provided that these activities do not comprise a majority of the organizations' efforts.[2]

On May 12, 2013, the Treasury Inspector General for Tax Administration (TIGTA) released a report that found that the Exempt Organizations (EO) division of the IRS inappropriately targeted "Tea Party" and other conservative applicants for tax-exempt status and subjected them to heightened scrutiny.[3] This additional scrutiny resulted in extended delays that, in most cases, sidelined applicants during the 2012 election cycle, in spite of their Constitutional right to participate. Meanwhile, the majority of liberal and left-leaning 501(c)(4) applicants won approval.[4]

Documents and information obtained by the Committee since the release of the TIGTA report show that Lois G. Lerner, the now-retired Director of IRS Exempt Organizations (EO), was extensively involved in targeting conservative-oriented tax-exempt applicants for inappropriate scrutiny. This report details her role in the targeting of conservative-oriented organizations, which would later result in some level of increased scrutiny of applicants from across the political spectrum. It also outlines her obstruction of the Committee's investigation.

Prior to joining the IRS, Lerner was the Associate General Counsel and Head of the Enforcement Office at the Federal Elections Commission (FEC).[5] During her tenure at the FEC, she also engaged in questionable tactics to target conservative groups seeking to expand their political involvement, often subjecting them to heightened scrutiny.[6] Her political ideology was evident to her FEC colleagues. She brazenly subjected Republican groups to rigorous investigations. Similar Democratic groups did not receive the same scrutiny.[7]

The Committee's investigation of Lerner's role in the IRS's targeting of tax-exempt organizations found that she led efforts to scrutinize conservative groups while working to

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[1] I.R.C. § 501(c)(4).
[2] I.R.C. § 501(c)(4); Treas. Reg. § 1.501(c)(4)-1(a)(2).
[3] TREASURY INSPECTOR GEN. FOR TAX ADMIN., INAPPROPRIATE CRITERIA WERE USED TO IDENTIFY TAX-EXEMPT APPLICATIONS FOR REVIEW (May 14, 2013).
[4] Gregory Korte, *IRS Approved Liberal Groups while Tea Party in Limbo*, USA Today, May 15, 2013.
[5] Eliana Johnson, *Lois Lerner at the FEC*, NAT'L REVIEW (May 23, 2013) [hereinafter *Lois Lerner at the FEC*].
[6] *Id.*
[7] *Id.*; Rebekah Metzler, *Lois Lerner: Career Gov't Employee Under Fire*, U.S. NEWS & WORLD REP. (May 30, 2013), *available at* http://www.usnews.com/news/articles/2013/05/30/lois-lerner-career-government-employee-under-fire (last accessed Jan. 14, 2014).

maintain a veneer of objective enforcement. Following the Supreme Court's 2010 decision in *Citizens United v. Federal Election Commission*, the IRS faced pressure from voices on the left to heighten scrutiny of applicants for tax-exempt status. IRS EO employees in Cincinnati identified the first Tea Party applicants and promptly forwarded these applications to IRS headquarters in Washington, D.C. for further guidance. Officials in Washington, D.C. directed IRS employees in Cincinnati to isolate Tea Party applicants even though the IRS had not developed a process for approving their applications.

While IRS employees were screening applications, documents show that Lerner and other senior officials contemplated concerns about the "hugely influential Koch brothers," and that Lerner advised her IRS colleagues that her unit should "do a c4 project next year" focusing on existing organizations.[8] Lerner even showed her recognition that such an effort would approach dangerous ground and would have to be engineered as not a "*per se* political project."[9] Underscoring a political bias against the lawful activity of such groups, Lerner referenced the political pressure on the IRS to "fix the problem" of 501(c)(4) groups engaging in political speech at an event sponsored by Duke University's Sanford School of Public Policy.[10]

Lerner not only proposed ways for the IRS to scrutinize groups with 501(c)(4) status, but also helped implement and manage hurdles that hindered and delayed the approval of groups applying for 501(c)(4) status. In early 2011, Lerner directed the manager of the IRS's EO Technical Unit to subject Tea Party cases to a "multi-tier review" system.[11] She characterized these Tea Party cases as "very dangerous," and believed that the Chief Counsel's office should "be in on" the review process.[12] Lerner was extensively involved in handling the Tea Party cases—from directing the review process to receiving periodic status updates.[13] Other IRS employees would later testify that the level of scrutiny Lerner ordered for the Tea Party cases was unprecedented.[14]

Eventually, Lerner became uncomfortable with the burgeoning number of conservative organizations facing immensely heightened scrutiny from a purportedly apolitical agency. Consistent with her past concerns that scrutiny could not be "*per se* political," she ordered the implementation of a new screening method. Without doing anything to inform applicants that they had been subject to inappropriate treatment, this sleight of hand added a level of deniability for the IRS that officials would eventually use to dismiss accusations of political motivations – she broadened the spectrum of groups that would be scrutinized going forward.

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[8] E-mail from Paul Streckfus to Paul Streckfus (Sept. 15, 2010) (EO Tax Journal 2010-130); E-mail from Lois Lerner, IRS, to Cheryl Chasin et al., IRS (Sept. 15, 2010). [IRSR 191032-33].

[9] E-mail from Lois Lerner, IRS, to Cheryl Chasin et al., IRS (Sept. 16, 2010). [IRSR 191030]

[10] John Sexton, *Lois Lerner Discusses Political Pressure on the IRS in 2010*, BREITBART.COM, Aug. 6, 2013.

[11] Transcribed Interview of Michael Seto, IRS, in Wash., D.C., at 34 (July 11, 2013).

[12] E-mail from Lois Lerner, IRS, to Michael Seto, IRS (Feb. 1, 2011). [IRSR 161810-11]

[13] Justin Lowe, IRS, Increase in (c)(3)/(c)(4) Advocacy Org. Applications (June 27, 2011). [IRSR 2735]; E-mail from Judith Kindell, IRS, to Lois Lerner, IRS (July 18, 2012). [IRSR 179406]

[14] *See, e.g.*, Transcribed interview of Carter Hull, IRS, in Wash., D.C. (June 14, 2013); Transcribed interview of Elizabeth Hofacre, IRS, in Wash., D.C. (May 31, 2013).

When Congress asked Lerner about a shift in criteria, she flatly denied it along with allegations about disparate treatment.[15] Even as targeting continued, Lerner engaged in a surreptitious discussion about an "off-plan" effort to restrict the right of existing 501(c)(4) applicants to participate in the political process through new regulations made outside established protocols for disclosing new regulatory action.[16] E-mails obtained by the Committee show she and other seemingly like-minded IRS employees even discussed how, if an aggrieved Tea Party applicant were to file suit, the IRS might get the chance to showcase the scrutiny it had applied to conservative applicants.[17] IRS officials seemed to envision a potential lawsuit as an expedient vehicle for bypassing federal laws that protect the anonymity of applicants denied tax exempt status.[18] Lerner surmised that Tea Party groups would indeed opt for litigation because, in her mind, they were "itching for a Constitutional challenge."[19]

Through e-mails, documents, and the testimony of other IRS officials, the Committee has learned a great deal about Lois Lerner's role in the IRS targeting scandal since the Committee first issued a subpoena for her testimony. She was keenly aware of acute political pressure to crack down on conservative-leaning organizations. Not only did she seek to convey her agreement with this sentiment publicly, she went so far as to engage in a wholly inappropriate effort to circumvent federal prohibitions in order to publicize her efforts to crack down on a particular Tea Party applicant. She created unprecedented roadblocks for Tea Party organizations, worked surreptitiously to advance new Obama Administration regulations that curtail the activities of existing 501(c)(4) organizations – all the while attempting to maintain an appearance that her efforts did not appear, in her own words, "*per se* political."

Lerner's testimony remains critical to the Committee's investigation. E-mails dated shortly before the public disclosure of the targeting scandal show Lerner engaging with higher ranking officials behind the scenes in an attempt to spin the imminent release of the TIGTA report.[20] Documents and testimony provided by the IRS point to her as the instigator of the IRS's efforts to crack down on 501(c)(4) organizations and the singularly most relevant official in the IRS targeting scandal. Her unwillingness to testify deprives Congress the opportunity to have her explain her conduct, hear her response to personal criticisms levied by her IRS coworkers, and provide vital context regarding the actions of other IRS officials. In a recent interview, President Obama broadly asserted that there is not even a "smidgeon of corruption" in the IRS targeting scandal.[21] If this is true, Lois Lerner should be willing to return to Congress to testify about her actions. The public needs a full accounting of what occurred and who was involved. Through its investigation, the Committee seeks to ensure that government officials are never in a position to abuse the public trust by depriving Americans of their Constitutional right to participate in our democracy, regardless of their political beliefs. This is the only way to restore confidence in the IRS.

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[15] Briefing by IRS staff to Committee staff (Feb. 24, 2012); *see* Letter from Darrell Issa & Jim Jordan, H. Comm. on Oversight & Gov't Reform, to Lois Lerner, IRS (May 14, 2013).
[16] E-mail from Ruth Madrigal, Dep't of the Treasury, to Victoria Judson et al., IRS (June 14, 2012). [IRSR 305906]
[17] E-mail from Nancy Marks, IRS, to Lois Lerner, Holly Paz, & David Fish, IRS (Mar. 29, 2013). [IRSR 190611]
[18] *Id.*
[19] E-mail from Lois Lerner, IRS, to Nancy Marks, Holly Paz, & David Fish, IRS (Apr. 1. 2013). [IRSR 190611]
[20] *See, e.g.*, E-mail from Lois Lerner, IRS, to Michelle Eldridge et al., IRS (Apr. 23, 2013). [IRSR 196295]; E-mail from Nikole Flax, IRS, to Lois Lerner, IRS (Apr. 23, 2013). [IRSR 189013]
[21] *"Not even a smidgeon of corruption": Obama downplays IRS, other scandals*, FOX NEWS, Feb. 3, 2014.

## III. Background: IRS Targeting and Lois Lerner's Involvement

In February 2012, the Committee received complaints from several congressional offices alleging that the IRS was delaying the approval of conservative-oriented organizations for tax-exempt status. On February 17, 2012, Committee staff requested a briefing from the IRS about this matter. On February 24, 2012, Lerner and other IRS officials provided the Committee staff with an informal briefing. The Committee continued to receive complaints of disparate treatment by the IRS EO office, and the matter continued to garner media attention.[22] On March 27, 2012, the Oversight and Government Reform Committee sent Lerner a joint letter requesting information about development letters that the IRS sent several applicants for tax-exempt status. In response, Lerner participated in a briefing with Committee staff on April 4, 2012. She also sent two letters to the Committee, dated April 26, 2012, and May 4, 2012, in response to the Committee's March 27, 2012 letter. Lerner's responses largely focused on rules, regulations, and IRS processes for evaluating applications for tax-exempt status. In the course of responding to the Committee's request for information, Lerner made several false statements, which are discussed below in greater detail.

### *A. Lerner's False Statements to the Committee*

During the February 24, 2012, briefing, Committee staff asked Lerner whether the criteria for evaluating tax-exempt applications had changed at any point. Lerner responded that the criteria had not changed. In fact, they had. According to the Treasury Inspector General for Tax Administration (TIGTA), in late June 2011, Lerner directed that the criteria used to identify applications be changed.[23] **This was the first time Lerner made a false or misleading statement during the Committee's investigation.**

On March 1, 2012, the Committee requested that TIGTA begin investigating the IRS process for evaluating tax-exempt applications. Committee staff and TIGTA met on March 8, 2012 to discuss the scope of TIGTA's investigation. TIGTA's investigation commenced immediately and proceeded concurrently with the Committee's investigation.

During another briefing on April 4, 2012, Lerner told Committee staff that the information the IRS was requesting in follow-up letters to conservative-leaning groups—which, in some cases, included a complete list of donors and their respective contributions—was not out

[22] *See, e.g.*, Janie Lorber, *IRS Oversight Reignites Tea Party Ire: Agency's Already Controversial Role is in Dispute After Questionnaires Sent to Conservative Groups*, ROLL CALL, Mar. 8, 2012, *available at* http://www.rollcall.com/issues/57_106/IRS-Oversight-Reignites-Tea-Party-Ire-212969-1.html; Susan Jones, *IRS Accused of 'Intimidation Campaign' Against Tea Party Groups*, CNSNEWS.COM, Mar. 7, 2012, http://cnsnews.com/news/article/irs-accused-intimidation-campaign-against-tea-party-groups; Perry Chiaramonte, *Numerous Tea Party Chapters Claim IRS Attempts to Sabotage Nonprofit Status*, FOX NEWS, Feb. 28, 2012, http://www.foxnews.com/politics/2012/02/28/numerous-tea-party-chapters-claim-irs-attempting-to-sabotage-non-profit-status/.

[23] Briefing by IRS staff to Committee staff (May 13, 2013); Treasury Inspector Gen. for Tax Admin., *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (May 2013) (2013-10-053), at 7, *available at* http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf [hereinafter TIGTA Audit Rpt.].

of the ordinary. Moreover, on April 26, 2012, in Lerner's first written response to the Committee's request for information, Lerner wrote that the follow-up letters to conservative applicants were "in the ordinary course of the application process to obtain the information as the IRS deems it necessary to make a determination whether the organization meets the legal requirements for tax-exempt status."[24]

In fact, the scope of the information that EO requested from conservative groups was extraordinary. At a briefing on May 13, 2013, IRS officials, including Nikole Flax, the IRS Commissioner's Chief of Staff, could not identify any other instance in the agency's history in which the IRS asked groups for a complete list of donors with corresponding amounts. **These marked the second and third times Lerner made a false or misleading statement during the Committee's investigation.**

On May 4, 2012, in her second written response to the Committee, Lerner justified the extraordinary requests for additional information from conservative applicants for tax-exempt status.[25] Among other things, Lerner stated, "the requests for information . . . are not beyond the scope of Form 1024 [the application for recognition under section 501(c)(4)]."[26]

According to TIGTA, however, at some point in May 2012, the IRS identified seven types of information, including requests for donor information, which it had inappropriately requested from conservative groups. In fact, according to the TIGTA report, Lerner had received a list of these unprecedented questions on April 25, 2012—more than one week before she sent a response letter to the Committee defending the additional scrutiny applied by EO to certain applicants. **Lerner's statement about the information requests was the fourth time she made a false or misleading statement during the Committee's investigation.**

During the May 10, 2013, American Bar Association (ABA) tax conference, Lerner revealed, through a question she planted with an audience member,[27] that the IRS knew that certain conservative groups had in fact been targeted for additional scrutiny.[28] She blamed the inappropriate actions of the IRS on "line people" in Cincinnati. She stated:

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[24] Letter from Lois G. Lerner, Director, Exempt Orgs., IRS, to Hon. Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform (Apr. 26, 2012).

[25] Letter from Lois G. Lerner, Director, Exempt Orgs., IRS, to Hon. Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform (May 4, 2012).

[26] *Id.* at 1.

[27] *Hearing on the IRS Targeting Conservative Groups: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013) (question and answer with Rep. Nunes); Bernie Becker, *Question that Revealed IRS Scandal was Planted, Chief Admits*, THE HILL, May 17, 2013, *available at* http://thehill.com/blogs/on-the-money/domestic-taxes/150878-question-that-revealed-irs-scandal-was-planted-chief-admits; Abby Phillip, *IRS Planted Question About Tax Exempt Groups*, ABC NEWS, May 17, 2013, http://abcnews.go.com/blogs/politics/2013/05/irs-planted-question-about-tax-exempt-groups/.

[28] John D. McKinnon & Corey Boles, *IRS Apologizes for Scrutiny of Conservative Groups*, WALL ST. J., May 10, 2013, *available at* http://online.wsj.com/news/articles/SB10001424127887323744604578474983310370360; Jonathan Weisman, *IRS Apologizes to Tea Party Groups Over Audits of Applications for Tax Exemption*, N.Y. TIMES, May 10, 2013; Abram Brown, *IRS, to Tea Party: Sorry We Targeted You & Your Tax Status*, FORBES, May 10, 2013, *available at* http://www.forbes.com/sites/abrambrown/2013/05/10/irs-to-tea-party-were-sorry-we-targeted-your-taxes/.

> So our line people in Cincinnati who handled the applications did what we call centralization of these cases. They centralized work on these in one particular group. . . . However, in these cases, the way they did the centralization was not so fine. Instead of referring to the cases as advocacy cases, they actually used case names on this list. They used names like Tea Party or Patriots and they selected cases simply because the applications had those names in the title. **That was wrong, that was absolutely incorrect, insensitive, and inappropriate — that's not how we go about selecting cases for further review. We don't select for review because they have a particular name.**[29]

This revelation occurred two days after members of the House Ways and Means Oversight Subcommittee on May 8, 2013, had asked Lerner for an update on the IRS's internal investigation into allegations of improper targeting at a hearing.[30] During the hearing, she declined to answer and directed Members to questionnaires on the IRS website. Lerner's failure to disclose relevant information to the House Ways and Means Committee—opting instead to leak the damaging information during an obscure conference—was the first in a series of attempts to obstruct the congressional investigation into targeting of conservative groups.

### *B. The Events of May 14, 2013*

Three significant events occurred on May 14, 2013. First, TIGTA released its final audit report, finding that the IRS used inappropriate criteria and politicized the process to evaluate organizations for 501(c)(4) tax-exempt status.[31] Specifically, TIGTA found that beginning in early 2010, the IRS used inappropriate criteria to target certain groups based on their names and political positions.[32] According to the report, "ineffective management" allowed the development and use of inappropriate criteria for more than 18 months.[33] The IRS's actions also resulted in "substantial delays in processing certain applications."[34] TIGTA found that the IRS delayed beginning work on a majority of targeted cases for 13 months.[35] The IRS also sent follow-up requests for additional information to targeted organizations. During its audit, TIGTA "determined [these follow-up requests] to be unnecessary for 98 (58 percent) of 170 organizations" that received the requests.[36]

Second, the Department of Justice announced that it had launched an FBI investigation into potential criminal violations in connection with the targeting of conservative tax-exempt

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[29] Rick Hasen, *Transcript of Lois Lerner's Remarks at Tax Meeting Sparking IRS Controversy*, ELECTION LAW BLOG (May 11, 2013, 7:37AM) http://electionlawblog.org/?p=50160 (emphasis added).
[30] *Hearing on the Oversight of Tax-Exempt Orgs.: Hearing before the H. Comm. on Ways & Means, Subcomm. on Oversight*, 113th Cong. (2013).
[31] TIGTA Audit Rpt., *supra* note 23.
[32] *Id.* at 6.
[33] *Id.* at 12.
[34] *Id.* at 5.
[35] *Id.* at 14.
[36] *Id.* at 18.

organizations.[37] Despite this announcement, FBI Director Robert Mueller was unable to provide even the most basic facts about the status of the FBI's investigation when he testified before Congress on June 13, 2013.[38] He testified a month after the Attorney General announced the FBI's investigation, calling the matter "outrageous and unacceptable."[39] Chairman Issa and Chairman Jordan wrote to incoming FBI Director James B. Comey on September 6, 2013, with questions about the Bureau's progress in undertaking its investigation into the findings of the May 14, 2013, TIGTA targeting report.[40] While the FBI responded to the Committee's request on October 31, 2013, it failed to produce any documents in response to the Committee's request and has refused to provide briefings on related issues. Chairman Issa and Chairman Jordan wrote to Director Comey again on December 2, requesting documents and information relating to the Bureau's response to the Committee's September 6 letter.[41] To date, the Bureau has responded with scant information, leaving open the possibility the Committee will have to explore other options to compel DOJ into providing the materials requested.[42]

Third, Chairman Issa and Chairman Jordan sent a letter to Lerner outlining each instance that she provided false or misleading information to the Committee. The letter also pointed out Lerner's failure to be candid and forthright regarding the IRS's internal review and subsequent findings related to targeting of conservative-oriented organizations. The Chairmen's letter stated:

> Moreover, despite repeated questions from the Committee over a year ago and despite your intimate knowledge of the situation, you failed to inform the Committee of IRS's plan, developed in early 2010, to single out conservative groups and how that plan changed over time. You also failed to inform the Committee that IRS launched its own internal review of this matter in late March 2012, or that the internal review was completed on May 3, 2012, finding significant problems in the review process and a substantial bias against conservative groups. At no point did you or anyone else at IRS inform Congress of the results of these findings.[43]

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[37] *Transcript: Holder on IRS, AP, Civil Liberties, Boston*, WALL STREET J. BLOG (May 14, 2013, 4:51PM), http://blogs.wsj.com/washwire/2013/05/14/transcript-holder-on-irs-ap-civil-liberties-boston/; Rachel Weiner, *Holder Has Ordered IRS Investigation*, WASH. POST, May 14, 2013, *available at* http://www.washingtonpost.com/blogs/post-politics/wp/2013/05/14/holder-has-ordered-irs-investigation/ [hereinafter Weiner].

[38] *Hearing on the Federal Bureau of Investigation: Hearing before the H. Comm. on the Judiciary*, 113th Cong. (2013) (question and answer with Rep. Jordan).

[39] Weiner, *supra* note 37.

[40] Letter from Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform, & Hon. Jim Jordan, Chairman, Subcomm. on Econ. Growth, Job Creation & Reg. Affairs, to Hon. James B. Comey, Director, Federal Bureau of Investigation (Sept. 6, 2013).

[41] Letter from Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform, & Hon. Jim Jordan, Chairman, Subcomm. on Econ. Growth, Job Creation & Reg. Affairs, to Hon. James B. Comey, Director, Federal Bureau of Investigation (Dec. 2, 2013).

[42] *See id.* at 3.

[43] Letter from Hon. Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform, & Hon. Jim Jordan, Chairman, H. Subcomm. on Econ. Growth, Job Creation, & Regulatory Affairs, to Lois G. Lerner, Director, Exempt Orgs., IRS (May 14, 2013).

The letter requested additional documents and communications between Lerner and her colleagues, and urged the IRS and Lerner to cooperate with the Committee's efforts to uncover the extent of the targeting of conservative groups. Lerner did not cooperate.

## II. Lerner's Failed Assertion of her Fifth Amendment Privilege

In advance of a May 22, 2013 hearing regarding TIGTA's report, the Committee formally invited Lerner to testify. Other witnesses invited to appear were Neal S. Wolin, Deputy Treasury Secretary, Douglas Shulman, former IRS Commissioner, and J. Russell George, the Treasury Inspector General for Tax Administration. Wolin, Schulman, and George all agreed to appear voluntarily. Lerner's testimony was necessary to understand the rationale for and extent of the IRS's practice of targeting certain tax-exempt groups for heightened scrutiny. By then, it was well known that Lerner had extensive knowledge of the scheme to target conservative groups. In addition to the fact that she was director of the Exempt Organizations Division, the Committee believed, as set forth above, that Lerner made numerous misrepresentations of fact related to the targeting program. The Committee's hearing intended to answer important questions and set the record straight about the IRS's handling of tax-exempt applications.

However, prior to the hearing, Lerner's attorney informed Committee staff that she would assert her Fifth Amendment privilege[44]—a refusal to appear before the Committee voluntarily to answer questions. As a result, the Chairman issued a subpoena on May 17, 2013, to compel her testimony at the Committee hearing on May 22, 2013. On May 20, 2013, William Taylor III, representing Lerner, sent the Chairman a letter advising that Lerner intended to invoke her Fifth Amendment privilege against self incrimination.[45] For this reason, Taylor requested that Lerner be excused from appearing.[46] On May 21, 2013, the Chairman responded to Taylor's letter, informing him that her attendance at the hearing was necessary due to "the possibility that [Lerner] will waive or choose not to assert the privilege as to at least certain questions of interest to the Committee."[47] The subpoena that compelled her appearance remained in place.[48]

### *A. Lerner Gave a Voluntary Statement at the May 22, 2013 Hearing*

On May 22, 2013, Lerner appeared with the other invited witnesses. The events that followed are now well known. Rather than properly asserting her Fifth Amendment privilege, Lerner, in the opinion of the Committee, the House General Counsel, and many legal scholars, waived her privilege by making a voluntary statement of innocence. Instead of remaining silent and declining to answer questions, with the exception of stating her name, Lerner read a lengthy statement professing her innocence:

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[44] Letter from Mr. William W. Taylor, Partner, Zuckerman Spaeder LLP, to Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform (May 20, 2013).
[45] *Id.*
[46] *Id.*
[47] Letter from Hon. Darrell Issa, Chairman, Comm. on Oversight & Gov't Reform to Mr. William W. Taylor, III, Zuckerman Spaeder, May 21, 2013.
[48] *Id.*

Good morning, Mr. Chairman and members of the Committee. My name is Lois Lerner, and I'm the Director of Exempt Organizations at the Internal Revenue Service.

I have been a government employee for over 34 years. I initially practiced law at the Department of Justice and later at the Federal Election Commission. In 2001, I became — I moved to the IRS to work in the Exempt Organizations office, and in 2006, I was promoted to be the Director of that office.

* * *

On May 14th, the Treasury inspector general released a report finding that the Exempt Organizations field office in Cincinnati, Ohio, used inappropriate criteria to identify for further review applications for organizations that planned to engage in political activity which may mean that they did not qualify for tax exemption. On that same day, the Department of Justice launched an investigation into the matters described in the inspector general's report. In addition, members of this committee have accused me of providing false information when I responded to questions about the IRS processing of applications for tax exemption.

**I have not done anything wrong. I have not broken any laws. I have not violated any IRS rules or regulations, and I have not provided false information to this or any other congressional committee.**

And while I would very much like to answer the Committee's questions today, I've been advised by my counsel to assert my constitutional right not to testify or answer questions related to the subject matter of this hearing. After very careful consideration, I have decided to follow my counsel's advice and not testify or answer any of the questions today.

Because I'm asserting my right not to testify, I know that some people will assume that I've done something wrong. I have not. One of the basic functions of the Fifth Amendment is to protect innocent individuals, and that is the protection I'm invoking today. Thank you.[49]

### *B. Lerner Authenticated a Document during the Hearing*

Prior to Lerner's statement, Ranking Member Elijah E. Cummings sought to introduce into the record a document containing Lerner's responses to questions posed by TIGTA. After

[49] *Hearing on the IRS: Targeting Americans for Their Political Beliefs: Hearing before the* H. Comm. on Oversight & Gov't Reform, 113th Cong. 22 (2013) (H. Rept. 113-33) (statement of Lois Lerner, Director, Exempt Orgs., IRS] [hereinafter May 22, 2013 IRS Hearing] (emphasis added).

her statement and at the request of the Chairman, Lerner reviewed and authenticated the document offered into the record by the Ranking Member.[50] In response to questions from Chairman Issa, she stated:

> **Chairman Issa:** Ms. Lerner, earlier the ranking member made me aware of a response we have that is purported to come from you in regards to questions that the IG asked during his investigation. Can we have you authenticate simply the questions and answers previously given to the inspector general?
>
> **Ms. Lerner:** I don't know what that is. I would have to look at it.
>
> **Chairman Issa:** Okay. Would you please make it available to the witness?
>
> **Ms. Lerner:** This appears to be my response.
>
> **Chairman Issa:** So it's your testimony that as far as your recollection, that is your response?
>
> **Ms. Lerner:** That's correct.[51]

Next, the Chairman asked Lerner to reconsider her position on testifying and stated that he believed she had waived her Fifth Amendment privilege by giving an opening statement and authenticating a document.[52] Lerner responded: "I will not answer any questions or testify about the subject matter of this Committee's meeting."[53]

### *C. Representative Gowdy's Statement Regarding Lerner's Waiver*

After Lerner refused to answer any questions, Representative Trey Gowdy sought recognition at the hearing. He stated:

> Mr. Issa, Mr. Cummings just said we should run this like a courtroom, and I agree with him. She just testified. She just waived her Fifth Amendment right to privilege. You don't get to tell your side of the story and then not be subjected to cross examination. That's not the way it works. She waived her right of Fifth Amendment privilege by issuing an opening statement. She ought to stay in here and answer our questions.[54]

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[50] *Id.* at 23 (statement of Lois Lerner, Director, Exempt Orgs., IRS).
[51] *Id.*
[52] *Id.*
[53] *Id.*
[54] *Id.*

Shortly after Representative Gowdy's comments, Chairman Issa excused Lerner, reserving the option to recall her at a later date. Chairman Issa stated that Lerner was excused "subject to recall after we seek specific counsel on the questions of whether or not the constitutional right of the Fifth Amendment has been properly waived."[55] Rather than adjourning the hearing on May 22, 2013, the Chairman recessed it, in order to reconvene at a later date after a thorough analysis of Lerner's actions.

### *D. Committee Business Meeting to Vote on Whether Lerner Waived Her Fifth Amendment Privilege*

On June 28, 2013, the Chairman convened a business meeting to allow the Committee to vote on whether Lerner waived her Fifth Amendment privilege. The Chairman made clear that he recessed the May 22, 2013 hearing so as not to "make a quick or uninformed decision."[56] He took more than five weeks to review the circumstances, facts, and legal arguments related to Lerner's voluntary statements.[57] The Chairman reviewed advice from the Office of General Counsel of the U.S. House of Representatives, arguments presented by Lerner's counsel, and the relevant legal precedent.[58] After much deliberation, he determined that Lerner waived her constitutional privilege when she made a voluntary opening statement that involved several specific denials of various allegations.[59] Chairman Issa stated:

> **Having now considered the facts and arguments, I believe Lois Lerner waived her Fifth Amendment privileges. She did so when she chose to make a voluntary opening statement.** Ms. Lerner's opening statement referenced the Treasury IG report, and the Department of Justice investigation, and the assertions she previously had provided -- sorry -- and the assertions that she had previously provided false information to the committee. **She made four specific denials.** Those denials are at the core of the committee's investigation in this matter. She stated that she had not done anything wrong, not broken any laws, not violated any IRS rules or regulations, and not provided false information to this or any other congressional committee regarding areas about which committee members would have liked to ask her questions. Indeed, committee members are still interested in hearing from her. Her statement covers almost the entire range of questions we wanted to ask when the hearing began on May 22.[60]

Lerner's counsel disagreed with the Chairman's assessment that his client waived her constitutional privilege.[61] In a letter dated May 30, 2013, Lerner's counsel argued that she had

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[55] *Id.* at 24.
[56] Business Meeting, H. Comm. on Oversight & Gov't Reform (June 28, 2013).
[57] *Id.*
[58] *Id.* at 5.
[59] *Id.*
[60] *Id.* (emphasis added)
[61] Letter from William W. Taylor, III, Zuckerman Spaeder LLP, to Hon. Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform (May 30, 2013) [hereinafter May 30, 2013 Letter].

not waived the privilege.[62] Specifically, he argued that a witness compelled to appear and answer questions does not waive her Fifth Amendment privilege by giving testimony proclaiming her innocence.[63] He cited the example of *Isaacs v. United States*, in which a witness subpoenaed to appear before a grand jury testified that he was not guilty of any crime while at the same time invoking his Fifth Amendment privilege.[64] The U.S. Court of Appeals for the Eighth Circuit rejected the government's waiver argument, holding that the witness's "claim of innocence . . . did not preclude him from relying upon his Constitutional privilege."[65]

Lerner's lawyer further argued that the law is no different for witnesses who proclaim their innocence before a congressional committee.[66] In *United States v. Haag,* a witness subpoenaed to appear before a Senate committee investigating links to the Communist Party testified that she had "never engaged in espionage," but invoked her Fifth Amendment privilege in declining to answer questions related to her alleged involvement with the Communist Party.[67] The U.S. District Court for the District of Columbia held that the witness did not waive her Fifth Amendment privilege.[68] In *United States v. Costello,* a witness subpoenaed to appear before a Senate committee investigating his involvement in a major crime syndicate testified that he had "always upheld the Constitution and the laws" and provided testimony on his assets, but invoked his Fifth Amendment privilege in declining to answer questions related to his net worth and indebtedness.[69] The U.S. Court of Appeals for the Second Circuit held that the witness did not waive his constitutional privilege.[70]

The cases cited by Lerner's lawyer do not apply to the facts in this matter. The Fifth Amendment provides that "[n]o person . . . shall be compelled in any criminal case to be a witness against himself."[71] By choosing to give an opening statement, Lerner cannot then claim the Fifth Amendment privilege to avoid answering questions on the subject matter contained in that statement.[72] It is well established that a witness "may not testify voluntarily about a subject and then invoke the privilege against self-incrimination when questioned about the details."[73] In such a case, "[t]he privilege is waived for the matters to which the witness testifies. . . ."[74]

Furthermore, a witness may waive the privilege by voluntarily giving exculpatory testimony. In *Brown v. United States*, for example, the Supreme Court held that "a denial of any activities that might provide a basis for prosecution" waived the privilege.[75] The Court

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[62] *Id.*
[63] *Id.*
[64] 256 F.2d 654, 656 (8th Cir. 1958).
[65] *Id.* at 661.
[66] May 30, 2013 Letter, *supra* note 61.
[67] 142 F. Supp. 667-669 (D.D.C. 1956).
[68] *Id.* at 671-72.
[69] 198 F.2d 200, 202 (2d Cir. 1952).
[70] *Id.* at 202-03.
[71] U.S. CONST., amend. V.
[72] *See Brown v. United States*, 356 U.S. 148 (1958).
[73] *Mitchell v. United States*, 526 U.S. 314, 321 (1999) ("A witness may not pick and choose what aspects of a particular subject to discuss without casting doubt on the trustworthiness of the statements and diminishing the integrity of the factual inquiry.").
[74] *Id.*
[75] *Brown*, 356 U.S. at 154-55.

analogized the situation to one in which a criminal defendant takes the stand and testifies on his own behalf, and then attempts to invoke the Fifth Amendment on cross-examination.[76]

Even though the Committee's subpoena compelled her to appear at the hearing, Lerner made an entirely voluntary statement. She denied breaking any laws, she denied breaking any IRS rules, she denied providing false information to Congress—in fact, she denied any wrongdoing whatsoever. Then she refused to answer questions posed by the Committee Members and exited the hearing.

On the morning of June 28, 2013, the Committee convened a business meeting to consider a resolution finding that Lois Lerner waived her Fifth Amendment privilege against self-incrimination when she made a voluntary opening statement at the Committee's May 22, 2013, hearing entitled "The IRS: Targeting Americans for Their Political Beliefs."[77] After lengthy debate, the Committee approved the resolution by a vote of 22 ayes to 17 nays.[78]

### *E. Lois Lerner Continues to Defy the Committee's Subpoena*

Following the Committee's resolution that Lerner waived her Fifth Amendment privilege, Chairman Issa recalled her to testify before the Committee. On February 25, 2014, Chairman Issa sent a letter to Lerner's attorney advising him that the May 22, 2013 hearing would reconvene on March 5, 2014.[79] The letter also advised that the subpoena that compelled Lerner to appear on May 22, 2013 remained in effect.[80]

Because of the possibility that she would choose to answer some or all of the Committee's questions, Chairman Issa required Lerner to appear in person on March 5, 2014. When the May 22, 2013 hearing, entitled "The IRS: Targeting Americans for Their Political Beliefs," was reconvened, Chairman Issa noted that the Committee might hold Lois Lerner in contempt of Congress if she continued to refuse to answer questions, based on the fact that the Committee had resolved that Lerner waived her Fifth Amendment privilege.

Despite the fact that Lerner was compelled by a duly issued subpoena and had been warned by Chairman Issa of the possibility of contempt proceedings, and despite the Committee having previously voted that she waived her Fifth Amendment privilege, Lerner continued to assert her Fifth Amendment privilege, and refused to answer any questions posed by Members of the Committee. Chairman Issa subsequently adjourned the hearing and excused Lerner from the hearing room. At that point, it was clear Lerner would not comply with the Committee's subpoena for testimony.

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[76] *Id.*
[77] Business Meeting, H. Comm. on Oversight & Gov't Reform (June 28, 2013).
[78] *Id.* at 65-66.
[79] Letter from Hon. Darrell E. Issa, Chairman, H. Comm. On Oversight & Gov't Reform to William W. Taylor III, Zuckerman Spaeder LLP (Feb. 25, 2014).
[80] *Id.*

Following Lerner's appearance before the Committee on March 5, 2014, her lawyer revealed during a press conference that she had sat for an interview with Department of Justice prosecutors and TIGTA staff within the past six months.[81] According to the lawyer, the interview was unconditional and not under oath, and prosecutors did not grant her immunity.[82] This interview weakens the credibility of her assertion of the Fifth Amendment privilege before the Committee. More broadly, it calls into question the basis for the assertion in the first place.

## III. Lerner's Testimony Is Critical to the Committee's Investigation

Prior to Lerner's attempted assertion of her Fifth Amendment privilege, the Committee believed her testimony would advance the investigation of the targeting of tax-exempt conservative-oriented organizations. The following facts supported the Committee's assessment of the probative value of Lerner's testimony:

- **Lerner was head of the IRS Exempt Organization's division, where the targeting of conservative groups occurred.** She managed the two IRS divisions most involved with the targeting – the EO Determinations Unit in Cincinnati and the EO Technical Unit in Washington, D.C.

- **Lerner has not provided any testimony since the release of TIGTA's audit.** Committee staff have conducted transcribed interviews of numerous IRS officials in Cincinnati and Washington. Without testimony from Lois Lerner, however, the Committee will never be able to fully understand the IRS's actions. Lerner has unique, first-hand knowledge of how and why the IRS decided to scrutinize conservative applicants.

- **Acting Commissioner Daniel Werfel did not interview Lerner as part of his ongoing internal review.** In finding no intentional wrongdoing associated with the targeting of conservative groups, Werfel never spoke to Lois Lerner. Furthermore, Werfel lacks the power to require Lerner to provide answers.

- **Lerner's signature appears on harassing letters the IRS sent to targeted groups.** As part of the "development" of the cases, the IRS sent harassing letters to the targeted organizations, asking intrusive questions consistent with guidance from senior IRS officials in Washington. Letters sent under Lois Lerner's signature included inappropriate questions, including requests for donor information.

- **Lerner appears to have edited the TIGTA report.** According to documents provided by the IRS, Lerner was the custodian of a draft version of the TIGTA report that contained tracked changes and written edits that became part of the final report.

[81] John D. McKinnon, *Former IRS Official Lerner Gave Interview to DOJ*, WALL ST. J., Mar. 6, 2014, http://blogs.wsj.com/washwire/2014/03/06/former-irs-official-lerner-gave-interview-to-doj/.
[82] *Id.*

In addition, many of Lerner's voluntary statements from May 22, 2013, have been refuted by evidence obtained by the Committee. Contrary to her statement that she did not do "anything wrong," the Committee knows that Lerner was intrinsically involved in the IRS's inappropriate treatment of tax-exempt applicants. Contrary to Lerner's plea that she has not "violated any IRS rules or regulations," the Committee has learned that Lerner transmitted sensitive taxpayer information to her non-official e-mail account in breach of IRS rules. Contrary to Lerner's statement that she has not provided "false information to this or any other congressional committee," the Committee has confirmed that Lerner made four false and misleading statements about the IRS's screening criteria and information requests for tax-exempt applicants.

In the months following the May 22, 2013 hearing, and after the receipt of additional documents from IRS, it is clear that Lerner's testimony is *essential* to understanding the truth regarding the targeting of certain groups. Subsequent to Lois Lerner's Fifth Amendment waiver during a hearing before the Committee on May 22, 2013, Committee staff learned through both additional transcribed interviews and review of additional documents that she had a greater involvement in targeting tax-exempt organizations than was previously understood.

### *A. Lerner's Post-Citizens United Rhetoric*

After the Supreme Court decided the *Citizens United v. Federal Election Commission* case, holding that government of restrictions of corporations and associations' expenditures on political activities was unconstitutional,[83] the IRS faced mounting pressure from the public to heighten scrutiny of applications for tax-exempt status. IRS officials in Washington played a key role in the disparate treatment of conservative groups. E-mails obtained by the Committee show that senior-level IRS officials in Washington, including Lerner, were well aware of the pressure the agency faced, and actively sought to scrutinize applications from certain conservative-leaning groups in response to public pressure.

On the same day of the *Citizens United* decision, White House Press Secretary Robert Gibbs warned that Americans "should be worried that special interest groups that have already clouded the legislative process are soon going to get involved in an even more active way in doing the same thing in electing men and women to serve in Congress."[84] On January 23, 2010, President Obama proclaimed that the *Citizens United* "ruling strikes at our democracy itself" and "opens the floodgates for an unlimited amount of special interest money into our democracy."[85] Less than a week later, the President publicly criticized the decision during his State of the Union address. The President declared:

> With all due deference to separation of powers, last week the Supreme Court reversed a century of law that I believe will open the floodgates for special interests – including foreign corporations – to spend without limit

[83] *Citizens United v. Federal Election Comm.*, 558 U.S. 310 (2010).
[84] The White House, Briefing by White House Press Secretary Robert Gibbs and PERAB Chief Economist Austan Goolsbee (Jan. 21, 2010).
[85] The White House, Weekly Address: President Obama Vows to Continue Standing Up to the Special Interest on Behalf of the American People (Jan. 23, 2010).

> in our elections. I don't think American elections should be bankrolled by America's most powerful interests, or worse by foreign entities. They should be decided by the American people.[86]

Over the next several months, the President continued his public tirade against the decision, so-called "secret money" in politics, and the emergence of conservative grassroots groups. In a July 2010 White House Rose Garden speech, the President proclaimed:

> Because of the Supreme Court's decision earlier this year in the *Citizens United* case, big corporations . . . can buy millions of dollars worth of TV ads – and worst of all, they don't even have to reveal who's actually paying for the ads. . . . These shadow groups are already forming and building war chests of tens of millions of dollars to influence the fall elections.[87]

During an August 2010 campaign event, the President declared:

> Right now all around this country there are groups with harmless-sounding names like Americans for Prosperity, who are running millions of dollars of ads against Democratic candidates all across the country. And they don't have to say who exactly the Americans for Prosperity are. You don't know if it's a foreign-controlled corporation. You don't know if it's a big oil company, or a big bank. You don't know if it's a insurance [*sic*] company that wants to see some of the provisions in health reform repealed because it's good for their bottom line, even if it's not good for the American people.[88]

Similarly, while speaking at a September 2010 campaign event, the President stated:

> Right now, all across this country, special interests are running millions of dollars of attack ads against Democratic candidates. And the reason for this is last year's Supreme Court decision in *Citizens United*, which basically says that special interests can gather up millions of dollars – they are now allowed to spend as much as they want without limit, and they don't have to ever reveal who's paying for these ads.[89]

These public statements criticizing conservative-leaning organizations in the aftermath of the Supreme Court's *Citizens United* opinion affected how the IRS identified and evaluated applications. In September 2010, *EO Tax Journal* published an article critical of certain tax-exempt organizations which purportedly engaged in political activity.[90] The article—published several months after the *Citizens United* opinion and during the President's tirade against the

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[86] The White House, Remarks by the President in the State of the Union Address (Jan. 27, 2010).
[87] The White House, Remarks by the President on the DISCLOSE ACT (July 26, 2010).
[88] The White House, Remarks by the President at a DNC Finance Event in Austin, Texas (Aug. 9, 2010).
[89] The White House, Remarks by the President at Finance Reception for Congressman Sestak (Sept. 20, 2010).
[90] E-mail from Paul Streckfus to Paul Streckfus (Sept. 15, 2010) (EO Tax Journal 2010-130) [IRSR 191032-33].

decision—argued that tax-exempt groups, which participate in the political process, are abusing their status.[91] Lerner sent the article to several IRS officials, including her senior advisor, Judy Kindell. Lerner stated "I'm really thinking we need to do a c4 project next year."[92]

Kindell agreed with Lerner that the IRS should focus special attention on certain tax-exempt groups.[93] Kindell conveyed her belief that tax-exempt groups participating in political activities should not qualify as 501(c)(4) groups.[94] Lerner agreed with her senior advisor, explaining in response that those tax-exempt groups which support political activity should be subject to scrutiny from the IRS.[95] Lerner wrote:[96]

**From:** Lerner Lois G
**Sent:** Wednesday, September 15, 2010 1:51 PM
**To:** Kindell Judith E; Chasin Cheryl D; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Subject:** RE: EO Tax Journal 2010-130

I'm not saying this is correct--but there is a perception out there that that is what is happening. My guess is most who conduct political activity never pay the tax on the activity and we surely should be looking at that. Wouldn't that be a surprising turn of events. My object is not to look for political activity--more to see whether self-declared c4s are really acting like c4s. Then we'll move on to c5,c6,c7--it will fill up the work plan forever!

*Lois G. Lerner*
Director, Exempt Organizations

Soon thereafter, Cheryl Chasin, an IRS official within the Exempt Organizations division, replied to Lerner with the names of several organizations which, in Chasin's opinion, were engaging in political activity.[97] In turn, Lerner replied that the IRS officials "need to have a plan" to handle the applications from certain tax-exempt groups.[98] Lerner wrote "We need to be cautious so it isn't a *per se* political project."[99]

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[91] *Id.*
[92] E-mail from Lois Lerner, IRS, to Cheryl Chasin et al., IRS (Sept. 15, 2010). [IRSR 191032-33].
[93] E-mail from Judith Kindell, IRS, to Lois Lerner, Cheryl Chasin, & Laurice Ghougasian, IRS (Sept. 15, 2010) [IRSR 191032].
[94] *Id.*
[95] *Id.*
[96] *Id.*
[97] E-mail from Cheryl Chasin, IRS, to Lois Lerner, Judith Kindell, & Laurice Ghougasian, IRS (Sept. 15, 2010). [IRSR 191030]
[98] E-mail from Lois Lerner, IRS, to Cheryl Chasin, Judith Kindell, & Laurice Ghougasian, IRS (Sept. 16, 2010). [IRSR 191030]
[99] *Id.*

**From:** Lerner Lois G
**Sent:** Thursday, September 16, 2010 9:58 AM
**To:** Chasin Cheryl D; Kindell Judith E; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Subject:** Re: EO Tax Journal 2010-130

Ok guys. We need to have a plan. We need to be cautious so it isn't a per se political project. More a c4 project that will look at levels of lobbying and pol. activity along with exempt activity. Cheryl- I assume none of those came in with a 1024? Lois G. Lerner----------

In addition to her e-mails critical of applications from certain groups, Lerner publicly criticized the Supreme Court's *Citizens United* opinion.[100] On October 19, 2010, Lerner spoke at an event sponsored by Duke University's Sanford School of Public Policy. At the event, Lerner referenced the political pressure the IRS faced to "fix the problem" of 501(c)(4) groups engaging in political activity.[101] She stated:

> What happened last year was the Supreme Court – the law kept getting chipped away, chipped away in the federal election arena. The Supreme Court dealt a huge blow, overturning a 100-year old precedent that basically corporations couldn't give directly to political campaigns. And everyone is up in arms because they don't like it. The Federal Election Commission can't do anything about it.
>
> **They want the IRS to fix the problem**. The IRS laws are not set up to fix the problem: (c)(4)s can do straight political activity. They can go out and pay for an ad that says, "Vote for Joe Blow." That's something they can do as long as their primary activity is their (c)(4) activity, which is social welfare.
>
> So everybody is screaming at us right now: 'Fix it now before the election. Can't you see how much these people are spending?' I won't know until I look at their 990s next year whether they have done more than their primary activity as political or not. So I can't do anything right now.[102]

Lerner reiterated her views to TIGTA investigators:

> The *Citizens United* decision allows corporations to spend freely on elections. Last year, there was a lot of press on 501(c)(4)s being used to funnel money on elections and the IRS was urged to do something about it.[103]

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[100] *Citizens United v. Federal Election Comm.*, 558 U.S. 310 (2010).
[101] John Sexton, *Lois Lerner Discusses Political Pressure on the IRS in 2010*, BREITBART.COM, Aug. 6, 2013.
[102] *See* "Lois Lerner Discusses Political Pressure on IRS in 2010," www.youtube.com (last visited Feb. 28, 2013) (transcription by authors).
[103] Treasury Inspector General for Tax Admin., Memo of Contact (Apr. 5, 2012).

Lerner openly shared her opinion that the Executive Branch needed to take steps to undermine the Supreme Court's decision. Her view was abundantly clear in many instances, including in one when Sharon Light, another senior advisor to Lerner, e-mailed Lerner an article about allegations that unknown conservative donors were influencing U.S. Senate races.[104] The article explained how outside money was making it increasingly difficult for Democrats to remain in the majority in the Senate.[105] Lerner replied: "Perhaps the FEC will save the day."[106]

In May 2011, Lerner again commented about her disdain for the *Citizens United* decision.[107] In her view, the decision had a major effect on election laws and, more broadly, the Constitution and democracy going forward.[108] She stated, "The constitutional issue is the big *Citizens United* issue. I'm guessing no one wants that going forward."[109]

| | |
|---|---|
| **From:** | Lerner Lois G |
| **Sent:** | Tuesday, May 17, 2011 10:37 AM |
| **To:** | Urban Joseph J |
| **Subject:** | Re: BNA - IRS Answers Few Questions Regarding Audits Of Donors Giving to Section 501(c)(4) Groups |

The constitutional issue is the big Citizens United issue. I'm guessing no one wants that going forward Lois G. Lerner-------

IRS officials, including Lerner, were acutely aware of criticisms of the political activities of conservative-leaning tax-exempt groups through electronic publications.[110] In October 2011, *EO Tax Journal* published a report regarding a letter sent by a group called "Democracy 21" to then-IRS Commissioner Doug Shulman and Lerner.[111] The letter called on the IRS to investigate certain conservative-leaning tax-exempt groups.[112] The IRS Deputy Division Counsel for the Tax Exempt Entities Division, Janine Cook, sent, via e-mail, the report and letter to the Division Counsel, Victoria Judson, calling the matter a "very hot button issue floating around."[113]

On several occasions, Lerner received articles from her colleagues that focused on discussions about conservative-leaning groups' political involvement. In March 2012, Cook e-mailed Lerner another *EO Tax Journal* article.[114] The article discussed congressional investigations and the IRS's treatment of tax-exempt applicants.[115] In response, Lerner stated, "we're going to get creamed."[116]

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[104] Peter Overby, *Democrats Say Anonymous Donors Unfairly Influencing Senate Races*, NAT'L PUBLIC RADIO, July 10, 2012.
[105] *Id.*
[106] E-mail from Lois Lerner, IRS, to Sharon Light, IRS (July 10, 2010). [IRS 179093]
[107] E-mail from Lois Lerner, IRS, to Joseph Urban, IRS (May 17, 2011). [IRSR 196471]
[108] *Id.*
[109] *Id.*
[110] *See, e.g.*, e-mail from Monice Rosenbaum, IRS, to Kenneth Griffin, IRS (Sept. 30, 2010). [IRSR 15430]
[111] E-mail from Paul Streckfus to Paul Streckfus (Oct. 3, 2011) (EO Tax Journal 2011-163) [IRSR 191032-33].
[112] *Id.*
[113] E-mail from Janine Cook, IRS, to Victoria Judson, IRS (Oct. 10, 2011). [IRSR 15433]
[114] E-mail from Janine Cook, IRS, to Lois Lerner, IRS (Mar. 2, 2012). [IRSR 56965]
[115] *Id.*
[116] E-mail from Lois Lerner, IRS, to Janine Cook, IRS (Mar. 2, 2012). [IRSR 56965]

| | |
|---|---|
| **From:** | Lerner Lois G <Lois.G.Lerner@irs.gov> |
| **Sent:** | Friday, March 02, 2012 9:20 AM |
| **To:** | Cook Janine |
| **Subject:** | RE: Advocacy orgs |

**If only you could help--we're going to get creamed being able to provide the guidance piece ASAP will be the best--thanks**

*Lois G. Lerner*
Director of Exempt Organizations

In June 2012, Roberta Zarin, Director of the Tax-Exempt and Government Entities Communication and Liaison, forwarded an e-mail to Lerner and her senior advisor, Judy Kindell, about an article published by *Mother Jones* entitled "How Dark-Money Groups Sneak by the Taxman."[117] The article specifically named several conservative-leaning groups, including the American Action Network, Crossroads GPS, Americans for Prosperity, FreedomWorks and Citizens United, and commented negatively on specific methods conservative-leaning groups have purportedly used to influence the political process.[118]

The *Mother Jones* article caught Lerner's attention. She forwarded the article to the Director of Examinations, Nanette Downing.[119]

| | |
|---|---|
| **From:** | Lerner Lois G |
| **Sent:** | Wednesday, June 13, 2012 12:48 PM |
| **To:** | Downing Nanette M |
| **Subject:** | FW: Mother Jones on (c)(4)s |

6103

*Lois G. Lerner*
Director of Exempt Organizations

Lerner's e-mail contained confidential tax return information, which was redacted pursuant to 26 U.S.C. § 6103, meaning that Lerner referenced a particular tax-exempt group in connection with the article.[120]

Not long after, in October 2012, Justin Lowe, a tax law specialist, alerted Lerner to yet another article critical of anonymous money allegedly donated to conservative-leaning groups.[121] The article, published by *Politico*, criticized the IRS's inability to restrain corporate money

[117] E-mail from Roberta Zarin, IRS, to Lois Lerner, Joseph Urban, Judith Kindell, Moises Medina, Joseph Grant, Sarah Hall Ingram, Melaney Partner, Holly Paz, David Fish, & Nancy Marks, IRS (June 13, 2012). [IRSR 177479]
[118] Gavin Aronsen, *How Dark-Money Groups Sneak by the Taxman*, MOTHER JONES, June 13, 2012, *available at* http://www.motherjones.com/mojo/2012/06/dark-money-501c4-irs-social-welfare.
[119] E-mail from Lois Lerner, IRS, to Nanette Downing, IRS (June 13, 2012). [IRSR 177479]
[120] *Id.*
[121] E-mail from Justin Lowe, IRS, to Roberta Zarin, Lois Lerner, Holly Paz, & Melaney Partner, IRS (Oct. 17, 2012). [IRSR 180728]

donated to conservative-leaning groups.[122] Lerner's response showed that she believed Congress ought to change the law to prohibit such activity.[123] She wrote, "I never understand why they don't go after Congress to change the law."[124]

| | |
|---|---|
| **From:** | Lerner Lois G |
| **Sent:** | Wednesday, October 17, 2012 9:28 AM |
| **To:** | Lowe Justin; Zarin Roberta B; Paz Holly O; Partner Melaney J |
| **Subject:** | RE: Politico Article on the IRS, Disclosure, and (c)(4)s |

**I never understand why they don't go after Congress to change the law!**

*Lois G. Lerner*
Director of Exempt Organizations

In the spring of 2013, the IRS was again facing mounting pressure from congressional leaders – largely on the Democratic side of the aisle – to crack down on certain organizations engaged in political activity. An official with the IRS Criminal Investigations Division testified before the Senate Judiciary Committee's Subcommittee on Crime and Terrorism at a hearing on campaign speech.[125] An e-mail discussion between Lerner and other IRS officials demonstrates that IRS officials believed that the purpose of the hearing was to discuss the extent to which certain tax-exempt organizations were participating in political activities.[126] In an e-mail to several top IRS officials, including Nikole Flax, the Chief of Staff to former Acting Commissioner Steve Miller, Lerner stated that the pressure from certain congressional leaders was completely focused on certain 501(c)(4) organizations.[127] She stated in part: "[D]on't be fooled about how this is being articulated—it is ALL about 501(c)(4) orgs and political activity."[128]

She also explained that her previous boss at the Federal Election Commission, Larry Noble, was now working as the President of Americans for Campaign Reform to "shut these [501(c)(4)s] down."[129]

Lerner's public statements, comments to TIGTA investigators, and candid e-mails to colleagues show that she was aware that Senate Democrats and certain Administration officials were not only aware of, but actively opposed to, the political activities of conservative-oriented groups. Further, she was well aware of the drumbeat that the IRS should crack down on applications from certain tax-exempt groups engaging in political activity.

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[122] Kenneth Vogel & Tarini Parti, *The IRS's 'Feeble' Grip on Political Cash*, POLITICO, Oct. 15, 2012.
[123] E-mail from Lois Lerner, IRS, to Justin Lowe, Roberta Zarin, Holly Paz, & Melaney Partner, IRS (Oct. 17, 2012). [IRSR 180728]
[124] *Id.*
[125] *Hearing on the Current Issues in Campaign Finance Law Enforcement: Hearing before the S. Comm. on the Judiciary, Subcomm. on Crime & Terrorism*, 113th Cong. (2013).
[126] E-mail from Lois Lerner, IRS, to Nikole Flax, Suzanne Sinno, Catherine Barre, Scott Landes, Amy Amato, & Jennifer Vozne, IRS (Mar. 27, 2013) [IRSR 188329]
[127] *Id.*
[128] *Id.*
[129] *Id.*

### *B. Lerner's Involvement in the Delay and Scrutiny of Tea Party Applicants*

Lerner, along with several senior officials, subjected applications from conservative leaning groups to heightened scrutiny. She established a "multi-tier review" system, which resulted in long delays for certain applications.[130] Furthermore, according to testimony from Carter Hull, a tax law specialist who retired in the summer of 2013, the IRS still has not approved certain applications.[131]

#### 1. "Multi-Tier Review" System

Lerner and her senior advisors closely monitored and actively assisted in evaluating Tea Party cases. In April 2010, Steve Grodnitzky, then-acting manager of EO Technical Group in Washington, directed subordinates to prepare "sensitive case reports" for the Tea Party cases.[132] These reports summarized the status and progress of the Tea Party test cases, and were eventually presented to Lerner and her senior advisors.

In early 2011, Lerner directed Michael Seto, manager of EO Technical, to place the Tea Party cases through a "multi-tier review."[133] He testified that Lerner "sent [him an] e-mail saying that when these cases need to go through multi-tier review and they will eventually have to go to [Judy Kindell, Lerner's senior technical advisor] and the Chief Counsel's office."[134]

In February 2011, Lerner sent an e-mail to her staff advising them that cases involving Tea Party applicants were "very dangerous," and something "Counsel and Judy Kindell need to be in on."[135] Further, Lerner explained that "Cincy should probably NOT have these cases."[136] Holly Paz, Director of the Office of Rulings and Agreements, also wrote to Lerner stating that "He [Carter Hull] reviews info from TPs [taxpayers] correspondence to TPs etc. No decisions are going out of Cincy until we go all the way through the process with the c3 and c4 cases here."[137]

In a transcribed interview with Committee staff, Carter Hull testified that during the winter of 2010-2011, Lerner's senior advisor told him the Chief Counsel's office would need to review the Tea Party applications.[138] This review process was an unusual departure from standard procedure.[139] He told Committee staff that during his 48 years with the IRS, he never

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[130] Transcribed Interview of Michael Seto, IRS, in Wash., D.C., at 34 (July 11, 2013).
[131] Transcribed Interview of Carter Hull, IRS, in Wash., D.C., at 53 (June 14, 2013).
[132] Email from Steven Grodnitzky, IRS, to Ronald J. Shoemaker & Cindy M. Thomas, IRS (Apr. 5, 2010). [Muthert 6]
[133] Transcribed Interview of Michael Seto, IRS, in Wash., D.C., at 34 (July 11, 2013).
[134] *Id.*
[135] E-mail from Lois Lerner, IRS, to Michael Seto, IRS (Feb. 1, 2011). [IRSR 161810-11]
[136] *Id.*
[137] *Id.*
[138] Transcribed Interview of Carter Hull, IRS, at 44-45 (June 14, 2013).
[139] *Id.*

previously sent a case to Lerner's senior advisor and did not remember ever sending a case to the Chief Counsel for review.[140]

In April 2011, Lerner's senior advisor, Kindell, wrote to Lerner and Holly Paz explaining that she instructed tax law specialists Carter Hull and Elizabeth Kastenberg to coordinate with the Chief Counsel's office to work through two specific Tea Party cases.[141] Kindell thought it would be beneficial to request that all Tea Party cases be sent to Washington. She stated "there are a number of other (c)(3) and (c)(4) applications of orgs related to the Tea Party that are currently in Cincinnati. Apparently the plan had been to send one of each to DC to develop a position to be applied to others."[142]

**From:** Kindell Judith E
**Sent:** Thursday, April 07, 2011 10:16 AM
**To:** Lerner Lois G; Paz Holly O
**Cc:** Light Sharon P; Letourneau Diane L; Neuhart Paige
**Subject:** sensitive (c)(3) and (c)(4) applications

I just spoke with Chip Hull and Elizabeth Kastenberg about two cases they have that are related to the Tea Party - one a (c)(3) application and the other a (c)(4) application. I recommended that they develop the private benefit argument further and that they coordinate with Counsel. They also mentioned that there are a number of other (c)(3) and (c)(4) applications of orgs related to the Tea Party that are currently in Cincinnati. Apparently the plan had been to send one of each to DC to develop a position to be applied to the others. Given the sensitivity of the issue and the need (I believe) to coordinate with Counsel, I think it would be beneficial to have the other cases worked in DC as well. I understand that there may be TAS inquiries on some of the cases.

In response, Holly Paz expressed her reservations about sending all of the Tea Party cases to Washington.[143] She explained that because of the IRS's considerable responsibilities in overseeing the implementation of the Affordable Care Act, as well as the approximately 40 Tea Party cases that were already pending, she was doubtful Washington would be able to handle all of the cases.[144]

### 2. Lerner's Briefing on the "Advocacy Cases"

During the summer of 2011, Lerner ordered her subordinates to reclassify the Tea Party cases as "advocacy cases."[145] She told subordinates she ordered this reclassification because she thought the term "Tea Party" was "just too pejorative."[146] Consistent with her earlier concern that scrutiny could not be "*per se* political," she also ordered the implementation of a new screening method. This change occurred without informing applicants selected for enhanced scrutiny that they had been selected through inappropriate criteria. This sleight-of-hand change

[140] *Id.* at 44, 47.
[141] E-mail from Judith Kindell, IRS, to Lois Lerner & Holly Paz, IRS (Apr. 7, 2011). [IRSR 69898]
[142] *Id.*
[143] E-mail from Holly Paz, IRS, to Judith Kindell & Lois Lerner, IRS (Apr. 7, 2011). [IRSR 69898]
[144] *Id.*
[145] Transcribed Interview of Carter Hull, IRS, in Wash., D.C., at 132 (June 14, 2013).
[146] *Id.*

added a level of deniability for the IRS, which officials would eventually use to dismiss accusations of political motivations.

According to testimony from Cindy Thomas, the IRS official in charge of the Cincinnati office, Lerner "cares about power and that it's important to her maybe to be more involved with what's going on politically and to me we should be focusing on working the determinations cases . . . and it shouldn't matter what type of organization it is."[147]

In June 2011, Holly Paz contacted Cindy Thomas regarding the Tea Party cases.[148] Paz explained that Lerner wanted a briefing on the cases.[149]

**From:** Paz Holly O
**Sent:** Wednesday, June 01, 2011 2:21 PM
**To:** Thomas Cindy M
**Cc:** Melahn Brenda
**Subject:** group of cases

re: Tea Party cases

Two things re: these cases:

1. Can you please send me a copy of the Crossroads Grassroots Policy Strategies (EIN 27-2753378) application? Lois wants Judy to take a look at it so she can summarize the issues for Lois.

2. What criteria are being used to label a case a "Tea Party case"? We want to think about whether those criteria are resulting in over-inclusion.

Lois wants a briefing on these cases. We'll take the lead but would like you to participate. We're aiming for the week of 6/27.

Thanks!

Holly

In late June 2011, Justin Lowe, a tax law specialist with EO Technical, prepared a briefing paper for Lerner summarizing the test cases sent from Cincinnati.[150] The paper described the groups as "organizations [that] are advocating on issues related to government spending, taxes, and similar matters."[151] The paper listed several criteria, which were used to identify Tea Party cases, including the phrases "Tea Party," "Patriots," or "9/12 Project" or "[s]tatements in the case file [that] criticize how the country is being run."[152]

[147] Transcribed Interview of Lucinda Thomas, IRS, in Wash., D.C., at 212 (June 28, 2013).
[148] E-mail from Holly Paz, IRS, to Cindy Thomas, IRS (June 1, 2011). [IRSR 69915]
[149] *Id.*
[150] Justin Lowe, IRS, Increase in (c)(3)/(c)(4) Advocacy Org. Applications (June 27, 2011). [IRSR 2735]
[151] *Id.*
[152] *Id.*

The briefing paper prepared for Lerner further stated that the applicant for 501(c)(4) status "stated it will conduct advocacy and political campaign intervention, but political campaign intervention will account for 20% or less of activities. A proposed favorable letter has been sent to Counsel for review."[153] Although the applicant planned to engage in minimal campaign activities, the IRS did not immediately approve the application. Despite the fact that Hull recommended the application for approval, as of June 2013, the application was still pending.[154]

In July 2011, Holly Paz wrote to an attorney in the IRS Chief Counsel's office expressing her reluctance to approve the Tea Party applications and noting Lerner's involvement in handling the cases. She wrote: "Lois would like to discuss our planned approach for dealing with these cases. We suspect we will have to approve the majority of the c4 applications."[155]

In August 2011, the Chief Counsel's office held a meeting with Carter Hull, Lerner's senior advisor, and other Washington officials to discuss the test cases.[156] For the next few months, however, these test cases were still pending. Later, the Chief Counsel's office told Hull that the office required updated information to evaluate the applications.[157] The request for updated information was unusual since the applications had been up-to-date as of a few months earlier.[158] In addition, the Chief Counsel's office discussed the possibility of creating a template letter for all Tea Party applications, including those which had remained in Cincinnati.[159] Hull testified that the template letter plan was impractical since each application was different.[160]

### 3. The IRS's Internal Review

Despite Lerner's substantial involvement in delaying the approval of Tea Party applications, IRS leadership excluded Lerner from an internal review of allegations of inappropriate treatment of the Tea Party applications.[161] Steve Miller, then-Deputy Commissioner, testified during a transcribed interview that he asked Nan Marks, a veteran IRS official, to conduct the review because he wanted someone independent to examine the allegations.[162] Lerner contacted Miller, expressing her confusion and a lack of direction on the IRS's review. She asked, "What are your expectations as to who is implementing the plan?"[163]

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[153] *Id.*
[154] Transcribed Interview of Carter Hull, IRS, in Wash., D.C., at 53 (June 14, 2013).
[155] E-mail from Holly Paz, IRS, to Janine Cook, IRS (July 19, 2011). [IRSR 14372-73]
[156] Transcribed Interview of Carter Hull, IRS, in Wash., D.C., at 47-49 (June 14, 2013).
[157] *Id.* at 50-51.
[158] *Id.*
[159] *Id.* at 51-52.
[160] *Id.* at 50-51.
[161] E-mail from Lois Lerner, IRS, to Steven Miller, IRS (May 2, 2012). [IRSR 198685]
[162] Transcribed interview of Steven Miller, IRS, in Wash., D.C., at 32-33 (Nov. 13, 2013).
[163] *Id.*

**From:** Lerner Lois G
**Sent:** Wednesday, May 02, 2012 9:40 AM
**To:** Miller Steven T
**Subject:** A Question

**I'm wondering if**

**you might be able to give me a better sense of your expectations regarding roles**

**and responsibilities for the c4 matters. I understand you have asked Nan**

**to take a deep look at the what is going on and make recommendations. I'm**

**fine with that. Then there was the discussion yesterday about how we plan**

**to approach the issues going forward. That is where the confusion**

**lies. What are your expectations as to who is implementing the**

**plan?**
**Prior to that**

**meeting, unbeknownst to me, Cathy had made comments regarding the**

**guidance—which Nan knew about. Nan then directed one of my staff to meet**

**with Cathy and start moving in a new direction. The staff person came to**

**me and I talked to Nan, suggesting before we moved, we needed to hear from you,**

**which is where we are now.**
**We're all on good**

**terms and we all want to do the best, but I fear that unless there's a better**

**understanding of roles, we may step on each others toes without intending**

**to.**
**Your thoughts**

**please. Thanks**
*Lois G. Lerner*

Director of Exempt Organizations

Once Marks's internal review confirmed that the IRS had inappropriately treated conservative applications, Lerner was personally involved in the aftermath. Echoing Lerner's

early 2011 orders to create a multi-layer review system for the Tea Party cases, Seto, manager of EO Technical, explained in June 2012 the new procedures for certain cases with "advocacy issues."[164] Seto advised staff that reviewers required the approval of senior managers, including Seto himself, before approving any cases with "advocacy issues."[165]

**From:** Seto Michael C
**Sent:** Wednesday,

June 20, 2012 2:11 PM
**To:** McNaughton Mackenzie P; Salins Mary J;

Shoemaker Ronald J; Lieber Theodore R
**Cc:** Grodnitzky Steven; Megosh

Andy; Giuliano Matthew L; Fish David L; Paz Holly O
**Subject:**

Additional procedures on cases with advocacy issues - before issuing any

favorable or initial denial ruling

Please

inform the reviewers and staff in your groups that before issuing any

favorable or initial denial rulings on any cases with advocacy issues, the

reviewers must notify me and you via e-mail and get our

approval. No favorable or initial denial rulings can be issued

without your and my approval. The e-mail notification includes the
name of the case, and a synopsis of facts and denial rationale. I may

require a short briefing depending on the facts and circumstances of the

particular case.
If you have any

questions, please let me know.

Thanks,

Mike

[164] E-mail from Michael Seto, IRS, to Mackenzie McNaughton, Mary Salins, Ronald Shoemaker, & Theodore Lieber, IRS (June 20, 2012). [IRSR 199229]
[165] *Id.*

These new procedures again delayed applications because reviewers were unable to issue any rulings on their own. Paz forwarded the e-mail to Lerner, ensuring Lerner was aware of the additional review procedures.[166]

Lerner's e-mails show she was well-aware that IRS officials had set aside numerous Tea Party cases for further review.[167] In July 2012, her senior advisor, Judy Kindell, explained what percentage of both (c)(3) and (c)(4) cases officials had set aside.[168] Kindell estimated that half of the (c)(3) applicants and three-quarters of the (c)(4) applicants appeared to be conservative leaning "based solely on the name."[169] Kindell also noted that the number of conservative-leaning applications set aside was much larger than that of applications set aside for liberal or progressive groups.[170]

**From:** Kindell Judith E
**Sent:** Wednesday, July 18, 2012 10:54 AM
**To:** Lerner Lois G
**Cc:** Light Sharon P
**Subject:** Bucketed cases

Of the 84 (c)(3)

cases, slightly over half appear to be conservative leaning groups based solely

on the name. The remainder do not obviously lean to either side of the

political spectrum.

Of the 199 (c)(4)

cases, approximately 3/4 appear to be conservative leaning while fewer than 10

appear to be liberal/progressive leaning groups based solely on the name.

The remainder do not obviously lean to either side of the political

spectrum.

The multi-tier review process in Washington and requests for additional information sent to applicants led to the delay of the test cases as well as other Tea Party applications pending in Cincinnati. The Chief Counsel's office also directed Lerner's staff to request additional information from Tea Party applicants, including information about political activities leading up to the 2010 election. In fact, it appears the IRS never resolved the test applications.[171]

---

[166] E-mail from Holly Paz, IRS, to Lois Lerner, IRS (June 20, 2012). [IRSR 199229]
[167] E-mail from Judith Kindell, IRS, to Lois Lerner, IRS (July 18, 2012). [IRSR 179406]
[168] *Id.*
[169] *Id.*
[170] *Id.*
[171] *See* Transcribed Interview of Carter Hull, IRS, at 53 (June 14, 2013).

### *C. Lerner's Involvement in Regulating 501(c)(4) groups "off-plan"*

According to information available to the Committee, the IRS and the Treasury Department considered regulating political speech of § 501(c)(4) social welfare organizations well before 2013.[172] The IRS and Treasury Department worked on these regulations in secret without noticing its work on the IRS's Priority Guidance Plan. Lois Lerner played a role in the this "off-plan" regulation of § 501(c)(4) organizations.

In June 2012, Ruth Madrigal of the Treasury Department's Office of Tax Policy wrote to Lerner and other IRS leaders about potential § 501(c)(4) regulations. She wrote: "Don't know who in your organization is keeping tabs on c4s, but since we mentioned potentially addressing them (off-plan) in 2013, I've got my radar up and this seemed interesting."[173] Madrigal forwarded a short article about a court decision with "potentially major ramifications for politically active section 501(c)(4) organizations."[174]

| | |
|---|---|
| **From:** | Ruth.Madrigal[redacted] |
| **Sent:** | Thursday, June 14, 2012 3:10 PM |
| **To:** | Judson Victoria A; Cook Janine; Lerner Lois G; Marks Nancy J |
| **Subject:** | 501(c)(4)s - From the Nonprofit Law Prof Blog |

Don't know who in your organizations is keeping tabs on c4s, but since we mentioned potentially addressing them (off-plan) in 2013, I've got my radar up and this seemed interesting...

In a transcribed interview with Committee staff, Madrigal discussed her e-mail. She explained that the Department worked with Lerner and her IRS colleagues to develop the § 501(c)(4) regulation "off-plan." She testified:

> Q And ma'am, you wrote, "potentially addressing them." Do you know what you meant by, quote, "potentially addressing them?"
>
> A Well, at this time, we would have gotten the request to do guidance of general applicability relating to (c)(4)s. And while I can't – I don't know exactly what was in my mind at the time I wrote this, the "them" seems to refer back to the (c)(4)s. And the communications between our offices would have had to do with guidance of general applicability.
>
> Q So, sitting here today, you take the phrase, "potentially addressing them" to mean issuing guidance of general applicability of 501(c)(4)s?

[172] *See* Letter from Darrell Issa & Jim Jordan, H. Comm. on Oversight & Gov't Reform, to John Koskinen, IRS (Feb. 4, 2014).
[173] E-mail from Ruth Madrigal, Dep't of the Treasury, to Victoria Judson et al., IRS (June 14, 2012). [IRSR 305906]
[174] *Id.*

A I don't know exactly what was in my head at the time when I wrote this, but to the extent that my office collaborates with the IRS, it's on guidance of general applicability.

Q And the recipients of this email, Ms. Judson and Ms. Cook are in the Chief Counsel's Office, is that correct?

A That's correct.

Q And Ms. Lerner and Ms. Marks are from the Commissioner side of the IRS?

A At the time of this email, I believe that Nan Marks was on the Commissioner's side, and Ms. Lerner would have been as well, yes.

Q So those are the two entities involved in rulemaking process or the guidance process for tax exempt organizations, is that right?

A Correct.

***

Q What did the term "off plan" mean in your email?

A Again, I don't have a recollection of doing – of writing this email at the time. I can't say with certainty what was meant at the time.

Q Sitting here today, what do you take the term "off plan" to mean?

A Generally speaking, off plan would refer to guidance that is not on – or the plan that is mentioned there would refer to the priority guidance plan. And so off plan would be not on the priority guidance plan.

Q And had you had discussions with the IRS about issuing guidance on 501(c)(4)s that was not placed on the priority guidance plan?

A In 2012, we – yes, in 2012, there were conversations between my office, Office of Tax Policy, and the IRS regarding guidance relating to qualifications for tax exemption under (c)(4).

Q And this guidance was in response to requests from outside parties to issue guidance?

> A Yes. Generally speaking, our priority guidance plan process starts with – includes gathering suggestions from the public and evaluating suggestions from the public regarding guidance, potential guidance topics, and by this point, to the best of my recollection, we had had requests to do guidance on this topic.[175]

Similarly, IRS attorney Janine Cook explained in a transcribed interview how the IRS and Treasury Department develop a regulation "off-plan." She testified that "it's a coined term, the term means the idea of spending some resources on working it, getting legal issues together, things like that, but not listing it on the published plan as an item we are working. That's what the term off plan means."[176] In a separate transcribed interview, IRS Division Counsel Victoria Judson explained that the IRS develops regulations "off-plan" when it seeks to "stop behavior that we feel is inappropriate under the tax law." She testified:

> We also have items we work on that are off-plan, and there are reasons we don't want to solicit comments. For example, if they might relate to a desire to stop behavior that we feel is inappropriate under the tax law, we might not want to publicize that we are working on that before we come out with the guidance.[177]

Information available to the Committee indicates that Lerner played some role in the IRS's and the Treasury Department's secret "off-plan" work to regulate § 501(c)(4) groups. Because the Committee has not obtained Lerner's testimony, it is unclear as to the nature and extent of her role in this "off-plan" regulatory work.

### *D. IRS Discussions about Regulatory Reform*

In 2012, the IRS received letters from Members of Congress and certain public interest groups about regulatory reform for 501(c)(4) groups. The letters asked the IRS to change the regulations regarding how much political activity is permissible. As IRS officials were contemplating the possibility of changing the level of permissible political activity for 501(c)(4) groups, the press picked up their discussions. After learning that the press was aware of the discussions, Nikole Flax, the Chief of Staff to then-Acting Commissioner Steve Miller, instructed IRS officials that she wanted to delay sending any responses, and that all response letters would require her approval.[178] Flax alerted Lerner that the letters "created a ton of issues including from Treasury and [the] timing [is] not ideal."[179] In response, Lerner wrote to Flax, explaining that she thought all the attention was "stupid."[180]

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[175] Transcribed interview of Ruth Madrigal, U.S. Dep't of the Treasury, in Wash., D.C. (Feb. 3, 2014).
[176] Transcribed interview of Janine Cook, IRS, in Wash., D.C. (Aug. 23, 2013).
[177] Transcribed interview of Victoria Ann Judson, IRS, in Wash., D.C. (Aug. 29, 2013).
[178] E-mail from Nikole Flax, IRS, to Lois Lerner, Holly Paz, Andy Megosh, Nalee Park, & Joseph Urban, IRS (July 24, 2012). [IRSR 179666]
[179] E-mail from Nikole Flax, IRS, to Lois Lerner, IRS (July 24, 2012). [IRSR 179666]
[180] *Id.*

| | |
|---|---|
| **From:** | Lerner Lois G |
| **Sent:** | Tuesday, July 24, 2012 10:36 AM |
| **To:** | Flax Nikole C |
| **Subject:** | Re: c4 letters |

That is why I told them every letter had to go thru you. Don't know why this didn't, but have now told all involved, I hope! Sorry for all the noise. It is just stupid, but not welcome, I'm sure.
Lois G. Lerner----------

Lerner instructed IRS officials that Nikole Flax, one of the agency's most senior officials, would have to approve all response letters to Members of Congress and public interest groups regarding regulatory reform for 501(c)(4) groups.[181] She advised staff that "NO responses related to c4 stuff go out without an affirmative message, in writing from Nikole."[182]

| | |
|---|---|
| **From:** | Lerner Lois G |
| **Sent:** | Tuesday, July 24, 2012 10:40 AM |
| **To:** | Paz Holly O; Megosh Andy; Fish David L; Park Nalee; Williams Melinda G |
| **Cc:** | Flax Nikole C |
| **Subject:** | C4 |

I know you all have received messages independently, but I wanted all to hear same message at same time. Regardless whether language has previously been approved, NO responses related to c4 stuff go out without an affirmative message, in writing from Nikole. Thanks Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

## *E. Lerner's Reckless Handling Section 6103 Information*

According to e-mails obtained by the Committee, Lerner recklessly treated taxpayer information covered by 26 U.S.C. § 6103.[183] Section 6103 of the Internal Revenue Code of 1986 generally prohibits the disclosure of "tax returns" and other "tax return information" outside the IRS. In February 2010, Lerner sent an e-mail to William Powers, a Federal Election Commission attorney, which contained confidential taxpayer information according to the IRS.[184]

[181] E-mail from Lois Lerner, IRS, to Holly Paz, Andy Megosh, David Fish, Nalee Park, & Melinda Williams, IRS (July 24, 2012). [IRSR 179669]
[182] *Id.*
[183] E-mail from Lois Lerner, IRS, to William Powers, Fed. Election Comm'n (Feb. 3, 2010, 11:25AM). [IRSR 123142]
[184] *Id.*

**From:** Lerner Lois G
**Sent:** Wednesday, February 03, 2010 11:25 AM
**To:** [redacted]
**Cc:** Fish David L
**Subject:** Your request

Per your request, we have checked our records and there are no additional filings at this time. [redacted] Hope that helps.

*Lois G. Lerner*
Director, Exempt Organizations

In addition, Lerner received confidential taxpayer information on her non-official e-mail account.[185] Her receipt of confidential taxpayer information on an unsecure, non-IRS computer system and e-mail account poses a substantial risk to the security of the taxpayer information. Her willingness to handle this information on a non-official e-mail account highlights her disregard for confidential taxpayer information. It also suggests a fundamental lack of respect for the organizations applying to the IRS for tax-exempt status.

**From:** Biss Meghan R
**Sent:** Saturday, May 04, 2013 11:07 AM Eastern Standard Time
**To:** Lerner Lois G; Lerner's Non-official E-mail Address
**Subject:** Summary of Application

Lois:

Attached is a summary of the entire application from REDACTED It includes the information from their initial 1023, our development letter, and their May 3 response. In it, I also point out situations where the revenue rulings they cite aren't exactly on point. Additionally, where they reference other REDACTED I included the information we have on those REDACTED from internet research.

As a note, the REDACTED may be an issue for the community foundation that made the payments. The REDACTED REDACTED But we won't know anything for sure until their 2012 Form 990 is filed.

Also, this article re REDACTED is interesting:
REDACTED

After you have had a chance to look over this document, we can have a discussion about it and any questions prior to your meeting with Steve.

Thanks,

Meghan

Lerner's messages contained private tax return information, redacted pursuant to 26 U.S.C. § 6103 when the IRS reviewed the e-mails prior to production to the Committee.[186] Section 6103 is in place to prevent federal workers from disclosing confidential taxpayer

[185] E-mail from Meghan Biss, IRS, to Lois Lerner, IRS (May 4, 2013, 11:07 AM). [Lerner-ORG 1607]
[186] *Id.*

information.[187] Tax returns and return information, which meet the statutory definitions, must remain confidential.[188] Lerner's e-mails containing confidential return information therefore represent a disregard for the protections of the statute and present very serious privacy concerns. These reckless disclosures of such sensitive information also raise questions of whether they were isolated events.

## *F. The Aftermath of the IRS's Scrutiny of Tea Party Groups*

As congressional committees and TIGTA began to examine more closely the IRS's treatment of applications from certain Tea Party groups, top officials within the agency were reluctant to disclose information. After Steve Miller, then Acting Commissioner of the IRS, testified at a House Committee on Ways and Means hearing in July 2012, Lerner stated in an e-mail a sense of relief that the hearing was more "boring" than anticipated.[189]

When Lerner learned about TIGTA's audit regarding the Tax Exempt Entities Division's treatment of applications from certain groups, she accepted the fact that the Division would be subject to a critical analysis from TIGTA officials.[190] Despite TIGTA and congressional scrutiny, Lerner's approach to the applications did not change. Documents show that, Lerner, along with several other IRS officials, were somehow emboldened and believed it was necessary to make their efforts known publicly, albeit not necessarily in a truthful manner. Specifically, they contemplated ways to make their denial of a 501(c)(4) group's application public knowledge.[191] The officials contemplated using the court system to do so.[192]

### 1. Lerner's Opinion Regarding Congressional Oversight

In July 2012, Lerner received an e-mail from Steve Miller soon after he testified at a House Ways and Means Committee hearing on charitable organizations.[193] Miller thanked Lerner and other IRS officials in Washington for their assistance in preparing for the hearing. In response, Lerner conveyed her relief that the hearing was less interesting than it could have been.[194] Because the Committee has not been able to speak with Lerner, it is uncertain what she meant by this e-mail.

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[187] 26 U.S.C. § 6103 (2012).
[188] *Id.*
[189] E-mail from Lois Lerner, IRS, to Steven Miller, IRS (July 25, 2012). [IRSR 179767]
[190] E-mail from Lois Lerner, IRS, to Richard Daly, Sarah Hall Ingram, Dawn Marx, Joseph Urban, Nancy Marks, Holly Paz, & David Fish, IRS (June 25, 2012). [IRSR 178166]
[191] E-mail from Lois Lerner, IRS, to Nancy Marks, Holly Paz, & David Fish, IRS (Apr. 1. 2013). [IRSR 190611]
[192] *Id.*
[193] E-mail from Steven Miller, IRS, to Justin Lowe, Joseph Urban, Christine Mistr, Nikole Flax, Catherine Barre, William Norton, Virginia Richardson, Richard Daly, Lois Lerner, & Holly Paz, IRS (July 25, 2012) [IRSR 179767]
[194] E-mail from Lois Lerner, IRS, to Steven Miller, IRS (July 25, 2012). [IRSR 179767]

| | |
|---|---|
| **From:** | Lerner Lois G |
| **Sent:** | Wednesday, July 25, 2012 7:47 PM |
| **To:** | Miller Steven T |
| **Subject:** | Re: thank you |

Glad it turned out to be far more boring than it might have. Happy to be able to help.
Lois G. Lerner----------

The Committee has sent numerous letters to the IRS requesting documents and information relating to the scrutiny of Tea Party applications. The IRS has often been evasive in its responses, and the Committee has encountered great difficulty in obtaining the agency's cooperation in conducting its investigation. In one instance in 2012, the Committee sent a letter to the IRS requesting information about the agency's treatment of Tea Party groups. Documents obtained by the Committee demonstrate that was Lerner not only aware of the letter, but also reviewed the request, and approved the written response sent to the Committee.[195]

[195] Action Routing Sheet, IRS (Apr. 25, 2012). [IRSR 14425]

**Action Routing Sheet** Issa/Jordan

| Request for Signature of | e-trak Control Number | Due date |
|---|---|---|
| Lois G. Lerner | 2012-30672 | 04/25/2012 |

Subject

EO response to The Honorable Jim Jordan, Chairman, Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending.

| Reviewing Office | Support Staff Initial / Date | Reviewer Initial / Date | Comment |
|---|---|---|---|
| NaLee Park | 4/25/12 | | |
| Dawn Marx | 4/25/12 | | |
| Lois Lerner | | 4/25/12 | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Summary

| Prepared By | Phone number | Office Location / Building | Return to |
|---|---|---|---|
| Dawn Marx | 202-283-8861 | | |

Form 14074 (Rev. 9-2010) Catalog Number 53167M publish.no.irs.gov Department of the Treasury - Internal Revenue Service

This IRS routing sheet, documenting which IRS offices reviewed and approved the letter, clearly shows Lerner's awareness of the Committee's investigation into the targeting of Tea Party-like groups. Still, Lerner failed to take the investigation seriously and was not forthright with the Committee. Instead, Lerner engaged in a pattern of concealment and making light of this serious misconduct by the IRS.

## 2. Tax Exempt Entities Division's Contacts with TIGTA

In January 2013, a TIGTA official contacted Holly Paz to inquire about an e-mail regarding Tea Party cases.[196] The official explained that during a recent briefing, he had mentioned TIGTA was seeking an e-mail from May 2010, which called for Tea Party applications to receive additional review.[197]

**From:** Paterson Troy D TIGTA [redacted]
**Sent:** Thursday, January 24, 2013 8:51 AM
**To:** Paz Holly O
**Subject:** E-Mail Retention Question

Holly,

Good morning.

During a recent briefing, I mentioned that we do not have the original e-mail from May 2010 stating that "Tea Party" applications should be forwarded to a specific group for additional review. After thinking it through, I was wondering about the IRS's retention or backup policy regarding e-mails. Do you know who I could contact to find out if this e-mail may have been retained?

Troy

Lerner was aware of the request for the May 2010 Tea Party e-mail because Paz replied to the TIGTA official and copied Lerner on the response.[198] Paz wrote that she could not provide any assistance in retrieving the e-mail, but rather the Chief Counsel's office needed to handle the request.[199]

**From:** Paz Holly O
**Sent:** Thursday, January 31, 2013 4:15 AM
**To:** Paterson Troy D TIGTA
**Cc:** Lerner Lois G
**Subject:** RE: E-Mail Retention Question

Troy,

I'm sorry we won't get to see you today. We have reached out to determine the appropriate contact regarding your question below and have been told that, if this data request is part of e-Discovery, the coordination needs to go through Chief Counsel. The person to contact regarding e-Discovery requests is Glenn Melcher. His email address is [redacted] and his phone number is [redacted]

Holly

[196] E-mail from Troy Paterson, IRS, to Holly Paz, IRS (Jan. 24, 2013). [IRSR 202641]
[197] *Id.*
[198] E-mail from Holly Paz, IRS, to Troy Paterson, Treasury Inspector Gen. for Tax Admin. (Jan. 31, 2013). [IRSR 202641]
[199] *Id.*

The e-mails above show Lerner and her colleagues unnecessarily delayed TIGTA's audit. Rather than simply providing the documents and information requested by TIGTA, Paz, who reported to Lerner directly, instructed TIGTA to go through the Chief Counsel's office for certain information.

### 3. Lerner Anticipates Issues with TIGTA Audit

Lerner anticipated blowback from TIGTA over the disparate treatment of certain applications for tax-exempt status. In June 2012, Lerner received an e-mail from Richard Daly, a technical executive assistant to the Tax Exempt and Government Entities Division Commissioner, informing her that TIGTA would be investigating how the tax-exempt division handles applications from § 501(c)(4) groups.[200]

[200] E-mail from Richard Daly, IRS, to Sarah Hall Ingram, Lois Lerner, & Dawn Marx, IRS (June 22, 2012). [IRSR 178167].

**From:** Daly Richard M
**Sent:** Friday,

June 22, 2012 5:10 PM
**To:** Ingram Sarah H; Lerner Lois G; Marx Dawn R;
Urban Joseph J; Marks Nancy J
**Subject:** FW: 201210022 Engagement

Letter
**Importance:** High

TIGTA is going to look at how we deal with the

applications from (c)(4)s. Among other things they will look at our

consistency, and whether we had a reasonable basis for asking for information

from the applicants. The engagement letter bears a close

reading. To my mind, it has a more skeptical tone than

usual.

Among the documents they want to look at are the

following:

All

documents and correspondence (including e-mail) concerning the Exempt

Organizations function's response to and decision-making process for addressing

the increase in applications for tax-exempt status from organizations involving

potential political advocacy issues.

TIGTA expects to issue its report in the spring.

Daly recommended a "close reading" of TIGTA's engagement letter, noting that it had a "more skeptical tone than usual."[201]

Lerner accepted the fact that TIGTA would scrutinize the tax-exempt division. In reply, she stated, in part: "It is what it is . . . we will get dinged."[202]

[201] *Id.*
[202] E-mail from Lois Lerner, IRS, to Richard Daly, Sarah Hall Ingram, Dawn Marx, Joseph Urban, Nancy Marks, Holly Paz, & David Fish, IRS (June 25, 2012). [IRSR 178166]

**From:** Lerner Lois G
**Sent:** Monday, June 25, 2012 5:00 PM
**To:** Daly Richard M; Ingram Sarah H; Marx Dawn R; Urban Joseph J; Marks Nancy J
**Cc:** Paz Holly O; Fish David L
**Subject:** RE: 201210022 Engagement Letter

**It is what it is. Although the original story isn't as pretty as we'd like, once we learned this were off track, we have done what we can to change the process, better educate our staff and move the cases. So, we will get dinged, but we took steps before the "dinging" to make things better and we have written procedures. So, it is what what it is.**

*Lois G.*

*Lerner*

Director of Exempt Organizations

### 4. Lerner Contemplates Retirement

By January 28, 2013, Lerner was considering retirement from the IRS.[203] She wrote to benefits specialist Richard Klein to request reports regarding the benefits she could expect to receive upon retirement.[204]

**From:** Klein Richard T
**Sent:** Monday, January 28, 2013 6:23 AM
**To:** Lerner Lois G
**Subject:** personnel info
**Importance:** Low

Here are your reports you requested.....set your sick leave at 1360 for the first report and bumped it up to 1700 for the second.....redeposit amount and hi three used are shown on the bottom right.....call or email if you need any thing else please.

*This e-mail and any attachments contain information intended solely for the use of the named recipient(s). This e-mail may contain privileged communications not suitable for forwarding to others. If you believe you have received this e-mail in error, please notify me immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.*

Richard T. Klein
Benefits Specialist

[203] E-mail from Richard Klein, IRS, to Lois Lerner, IRS (Jan. 28, 2013). [IRSR 202597]
[204] *Id.*

The reports Klein sent prompted several questions from Lerner, including an estimate of the amount in benefits she would receive if she retired in October 2013:[205]

| | |
|---|---|
| **From:** | Lerner Lois G |
| **Sent:** | Monday, January 28, 2013 10:06 AM |
| **To:** | Klein Richard T |
| **Subject:** | RE: personnel info |

**OK--questions already. I see at the bottom what my CSRS repayment amount would be should I decide to repay. It looks like the calculation at the tops assumes I am repaying--is that correct? Can I see what the numbers look like if I decide not to repay? Also, how do I go about repaying, if I choose to? Where would I find that information? Would you mind running a calculation for a retirement date of October 1, 2013? Also, the definition of monthly social security offset seems to say that at age 62(which I am) my monthly annuity will be offset by social security even if I don't apply. First--what the heck does that mean? Second, I don't see an offset on the chart--please explain. Thank you.**

*Lois G. Lerner*
Director of Exempt Organizations

### 5. The IRS's Plans to Make an Application Denial Public

IRS officials in Washington wanted to publicize the fact that the IRS had closely scrutinized applications from Tea Party groups. The officials wanted to make the denial of one specific Tea Party group's application public knowledge. At the end of March 2013, Lerner had a discussion with other IRS officials about how they could inform the public about the application denial.[206] IRS officials discussed the possibility of bringing the case through the court system, rather than an administrative hearing, to ensure that the denial became public.[207] Lerner assumed these groups would opt for litigation because, in her mind, they were "itching for a Constitutional challenge."[208]

## *G. Lerner's Role in Downplaying the IRS's Scrutiny of Tea Party Applications*

In the spring of 2013, senior IRS officials prepared a plan to acknowledge publicly yet downplay the scrutiny given to Tea Party applications. Although Lerner spoke on the subject at an ABA event in May 2013, the IRS had originally planned to have Lerner comment on it at a Georgetown University Law Center conference in April. Lerner e-mailed several of her

[205] E-mail from Lois Lerner, IRS, to Richard Klein, IRS (Jan. 28, 2013). [IRSR 202597]
[206] E-mail from Nancy Marks, IRS, to Lois Lerner, Holly Paz, & David Fish, IRS (Mar. 29, 2013). [IRSR 190611]
[207] *Id.*
[208] E-mail from Lois Lerner, IRS, to Nancy Marks, Holly Paz, & David Fish, IRS (Apr. 1. 2013). [IRSR 190611]

colleagues about the Georgetown speaking engagement, noting that she might add "remarks that are being discussed at a higher level."[209]

| | |
|---|---|
| **To:** | Eldridge Michelle L; Zarin Roberta B; Lemons Terry L; Burke Anthony |
| **Cc:** | Partner Melaney J; Marx Dawn R |
| **Subject:** | RE: Georgetown |

**I will now be speaking somewhere between 11-11:30 depending on when previous speaker finishes. I amy or may not be adding some remarks that are being discussed at a higher level. If approved, I have not been told whether those remarks will be in the written speech, or I will simply give them orally. There amy be a desire to get the speech up ASAP if the new proposed language is added to the draft--these are Nikole questions. Right now, though, we're simple on hold.**

*Lois G. Lerner*
Director of Exempt Organizations

Contemporaneously, Nikole Flax sent Lerner a draft set of remarks on 501(c)(4) activity.[210] The remarks stated in part:

> Here's where a problem occurred. In centralizing the cases in Cincinnati, my review team placed too much reliance on the particular name of an organization; in this case, relying on names in organization titles like 'tea party' or 'patriot,' rather than looking deeper into the facts to determine the level of activity under c4 guidelines. Our Inspector General is looking at this situation, but I believe and the IRS leadership team believe[s] this to be an error – not a political vendetta.[211]

Although Lerner did not acknowledge the extra scrutiny given to Tea Party applications at the Georgetown conference, the officials in the Acting Commissioner's office made plans to have her speak on the subject at an ABA event using a question planted with an audience member. In May 2013, Flax contacted Lerner to inquire about the topic of her remarks at the event.[212] Flax's inquiry demonstrates that senior IRS officials were seeking a venue for Lerner to speak about the Tea Party scrutiny in order to downplay and gloss over the issue.[213] At the ABA event on May 10, 2013, Lerner did so.

[209] E-mail from Lois Lerner, IRS, to Michelle Eldridge, Roberta Zarin, Terry Lemons, & Anthony Burke, IRS (Apr. 23, 2013). [IRSR 196295]
[210] E-mail from Nikole Flax, IRS, to Lois Lerner, IRS (Apr. 23, 2013). [IRSR 189013]
[211] Preliminary Draft, Recent Section 501(c)(4) Activity, IRS (Apr. 22, 2013). [IRSR 189014]
[212] E-mail from Nikole Flax, IRS, to Lois Lerner, IRS (May 3, 2013). [IRSR 189445]
[213] *Id.*

### *H. Lerner's Management Style*

During transcribed interviews with Committee staff, several IRS officials testified that Lerner is a bad manager who is "unpredictable"[214] and "emotional."[215] On October 22, 2013, during a transcribed interview, Nikole Flax, the former IRS Acting Commissioner's Chief of Staff, discussed the July 2012 House Ways and Means Committee hearing on tax-exempt issues.[216] Steve Miller, then-Deputy Commissioner of the IRS, testified at the hearing. Lerner did not.[217] Committee staff asked Flax why the IRS did not choose Lerner as a witness.[218] Flax testified:

> Q And you said before that [Acting Commissioner of Tax Exempt and Government Entities Joseph] Grant wasn't the best witness at the hearing. Was there any discussion about having Ms. Lerner as a witness for that hearing?
>
> A No.
>
> Q Why not?
>
> A **Lois is unpredictable. She's emotional.** I have trouble talking negative about someone. I think in terms of a hearing witness, she was not the ideal selection.[219]

Further, during an interview with Cindy Thomas, the IRS official in charge of the Cincinnati office, Thomas stated that when she became aware of Lerner's comments about the IRS's treatment of Tea Party applications at the ABA event, she was extremely upset. Thomas wrote Lerner an e-mail on May 10, 2013, with "Low Level workers thrown under the Bus" in the subject line.[220] Thomas excoriated Lerner, noting that through Lerner's remarks, **"Cincinnati wasn't publicly 'thrown under the bus' (but) instead was hit by a convoy of Mack trucks."**[221] Thomas explained Lerner's statements at the event were "derogatory" to lower level employees working determinations cases.[222] She testified:

> Q And what was your reaction to hearing the news?
>
> A I was really, really mad.
>
> Q Why?

---

[214] Transcribed Interview of Nikole Flax, IRS, at 153 (Oct. 22, 2013).
[215] *Id.*
[216] *Id.*
[217] *Id.*
[218] *Id.*
[219] *Id.* (emphasis added).
[220] E-mail from Cindy M. Thomas to Lois G. Lerner, et al. (May 10, 2013). [IRSR 366782]
[221] *Id.* (emphasis added).
[222] Transcribed Interview of Lucinda Thomas, IRS, at 210 (June 28, 2013).

A **I feel as though Cincinnati employees and EO Determinations was basically thrown under a bus and that the Washington office wasn't taking any responsibility for knowing about these applications, having been involved in them and being the ones to basically delay processing of the cases.**[223]

Although Thomas admitted that the Cincinnati office made mistakes in handling tax-exempt applications, she explained that IRS officials in Washington were primarily responsible for the delay.[224] She stated: **[Y]es, there were mistakes made by folks in Cincinnati as well [as] D.C. but the D.C. office is the one who delayed the processing of the cases."**[225]

While Thomas found Lerner's reference to the culpability of lower level workers for the delay of the applications during her talk at the ABA event was upsetting and misguided, Thomas also stated in part: **"It's not the first time that she has used derogatory comments about the employees working determination cases and she has done it before."**[226]

Thomas testified that Lerner's statements about lower level employees in Cincinnati were just one example of offensive remarks she often made to other IRS employees. She explained that Lerner "referred to us as backwater before."[227] Thomas also noted the impact of Lerner's comments on employee morale. She stated in part: "[I]t's frustrating like how am I supposed to keep them motivated when our so-called leader is referring to people in that direction."[228] Thomas also stated: "She also makes comments like, well, you're not a lawyer."[229]

Lerner's comments reflect a startling attitude toward her subordinates. As the director of the Exempt Organizations Division, she was a powerful figure at IRS headquarters in Washington. It is evident from testimony that Lerner brazenly shifted blame to lower level employees for delaying the Tea Party applications. Instead of taking responsibility for the major role she played in the delay, she found fault with others, diminishing employee morale in the process.

## *I. Lerner's Use of Unofficial E-mail*

As the Committee has continued to investigate Lerner's involvement in targeting Tea Party groups, Committee staff has also learned that she improperly used a non-official e-mail account to conduct official business. On several occasions, Lerner sent documents related to her official duties from her official IRS e-mail account to an msn.com e-mail account labeled "Lois Home."

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[223] *Id.* (emphasis added).
[224] *Id.* at 211.
[225] *Id.*
[226] *Id.* at 210 (emphasis added).
[227] *Id.* at 213.
[228] *Id.*
[229] *Id.*

Lerner's use of a non-official e-mail account to conduct official business not only implicates federal records requirements, but also frustrates congressional oversight obligations. Use of a non-official e-mail account raises the concern that official government e-mail archiving systems did not capture the records, as defined by the Federal Records Act.[230] Further, it creates difficulty for the agency when responding to Freedom of Information Act, congressional subpoenas, or litigation requests.

## IV. Conclusion

Since Lois Lerner first publicly acknowledged the IRS's inappropriate treatment of conservative tax-exempt applicants during an American Bar Association speech on May 10, 2013, substantial debate has ensued over the nature of the IRS misconduct. While bureaucratic bumbling played an undeniable role in some delays and inappropriate treatment, questions have persisted. Could someone with a political agenda – or under instructions – and a sophisticated understanding of the IRS cause a partisan delay for organizations seeking to promote social welfare and exercise their Constitutionally guaranteed First Amendment right to participate in the political process?

From her days at the Federal Election Commission, Lerner's left-leaning politics were known and recognized.[231] Even at a supposedly apolitical agency like the IRS, her views should not have been an obstacle to fair and impartial judgment that would impair her job performance. But amidst a scandal in which her agency deprived Americans of their Constitutional rights, a relevant question is whether the actions she took in her job improperly reflected her political beliefs. Congressional investigators found evidence that this occurred.

Lerner's views on the *Citizens United* Supreme Court ruling, which struck down certain restrictions on election-related activities, showed a keen awareness of arguments that the Court's decision would be detrimental to Democratic Party candidates. As she explained in her own words to her agency's Inspector General:

> The *Citizens United* decision allows corporations to spend freely on elections. Last year, there was a lot of press on 501(c)(4)s being used to funnel money on elections and the IRS was urged to do something about it.[232]

When a colleague sent her an article about allegations that unknown conservative donors were influencing U.S. Senate races, she responded hopefully: "Perhaps the FEC will save the day."[233]

Evidence indicates Lerner and her Exempt Organizations unit took a three pronged approach to "do something about it" to "fix the problem" of nonprofit political speech:

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[230] 44 U.S.C. § 3101.
[231] *Lois Lerner at the FEC*, *supra* note 5.
[232] Treasury Inspector Gen. for Tax Admin, Memo of Contact (Apr. 5, 2012) (memorandum of contact with Lois Lerner).
[233] E-mail from Lois Lerner, IRS, to Sharon Light, IRS (July 10, 2010). [IRS 179093]

1) Scrutiny of new applicants for tax-exempt status (which began as Tea Party targeting);

2) Plans to scrutinize organizations, like those supported by the "Koch Brothers," that were already acting as 501(c)(4) organizations; and

3) "[O]ff plan" efforts to write new rules cracking down on political activity to replace those that had been in place since 1959.

Even without her full testimony, and despite the fact that the IRS has still not turned over many of her e-mails, a political agenda to crack down on tax-exempt organizations comes into focus. Lerner believed the political participation of tax-exempt organizations harmed Democratic candidates, she believed something needed to be done, and she directed action from her unit at the IRS. Compounding the egregiousness of the inappropriate actions, Lerner's own e-mails showed recognition that she would need to be "cautious" so it would not be a "*per se* political project."[234] She was involved in an "off-plan" effort to write new regulations in a manner that intentionally sought to undermine an existing framework for transparency.[235]

Most damning of all, even when she found that the actions of subordinates had not adhered to a standard that could be defended as not "*per se* political," instead of immediately reporting this conduct to victims and appropriate authorities, Lerner engaged in efforts to cover it up. She falsely denied to Congress that criteria for scrutiny had changed and that disparate treatment had occurred. The actions she took to broaden scrutiny to non-conservative applicants were consistent with efforts to create plausible deniability for what had happened – a defense that the Administration and its most hardcore supporters have repeated once unified outrage eroded over one of the most divisive controversies in American politics today.

Bureaucratic bumbling and IRS employees who sincerely believed they were following the directions of superiors did occur. Even when Lerner directed what employees would characterize as "unprecedented" levels of scrutiny for Tea Party cases, they did not attribute this direction to a partisan agenda. Ironically, the bureaucratic bumbling that seems to have been behind many inappropriate requests for information from applicants and a screening criterion that could never pass as not "*per se* political" may have had a silver lining. Without it, Lois Lerner's agenda to scrutinize tax-exempt organizations that exercised their First Amendment rights might not have ever been exposed.

The Committee continues to offer Lois Lerner the opportunity to testify. Many questions remain, including the identities of others at the IRS and elsewhere who may have known about key events and decisions she undertook. Americans, and particularly those Americans who faced mistreatment at the hands of the IRS, deserve the full documented truth that both Lois Lerner and the IRS have withheld from them.

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[234] E-mail from Lois Lerner, IRS, to Cheryl Chasin et al., IRS (Sept. 16, 2010). [IRSR 191030]

[235] *See* E-mail from Ruth Madrigal, Dep't of the Treasury, to Victoria Judson et al., IRS (June 14, 2012). [IRSR 305906]

**To:** Eldridge Michelle L; Zarin Roberta B; Lemons Terry L; Burke Anthony
**Cc:** Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown

I will now be speaking somewhere between 11-11:30 depending on when previous speaker finishes. I amy or may not be adding some remarks that are being discussed at a higher level. If approved, I have not been told whether those remarks will be in the written speech, or I will simply give them orally. There amy be a desire to get the speech up ASAP if the new proposed language is added to the draft--these are Nikole questions. Right now, though, we're simple on hold.

*Lois G. Lerner*
Director of Exempt Organizations

---

**From:** Eldridge Michelle L
**Sent:** Tuesday, April 23, 2013 9:55 AM
**To:** Lerner Lois G; Zarin Roberta B; Lemons Terry L; Burke Anthony
**Cc:** Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown

I'm sorry--I've lost track. What time is your speech? Given timing of other stuff that day--we may be looking at posting both in the afternoon. I'm sure this will continue to be discussed...as I hear more details, I will pass it along. Please let me know what you are hearing as well. Thanks. --Michelle

---

**From:** Lerner Lois G
**Sent:** Monday, April 22, 2013 6:49 PM
**To:** Zarin Roberta B; Lemons Terry L; Eldridge Michelle L; Burke Anthony
**Cc:** Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown
**Importance:** High

Hmm--I was thinking the speech would go up right after I speak and the report would go up later in the afternoon. Will that work?

*Lois G. Lerner*
Director of Exempt Organizations

---

**From:** Zarin Roberta B
**Sent:** Monday, April 22, 2013 1:32 PM
**To:** Lemons Terry L; Eldridge Michelle L; Burke Anthony
**Cc:** Lerner Lois G; Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown

Thanks, but Melaney deserves credit for that one! We are planning to post Lois' speech, along with the report, Thursday afternoon

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and Government Entities
[redacted]

**From:** Lemons Terry L
**Sent:** Monday, April 22, 2013 1:10 PM
**To:** Zarin Roberta B; Eldridge Michelle L; Burke Anthony
**Cc:** Lerner Lois G; Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown

Bobby – good catch on the news release. Think we should try doing a short one since we did the interim one. Think text should track what we did before (below.) Anthony Burke will be reaching out to you. Think we need text by mid-day Tuesday so we can get through clearance channels on third floor and Treasury.

Also possible we may post text of Thursday speech on IRS.gov.

Thanks.

**From:** Zarin Roberta B
**Sent:** Monday, April 22, 2013 11:09 AM
**To:** Lemons Terry L; Eldridge Michelle L
**Cc:** Lerner Lois G; Partner Melaney J; Marx Dawn R
**Subject:** FW: Georgetown

Fun for the week:

Do you know if we have language Lois can use re: the furlough? (see below.) I'm sure other IRS speakers are facing the same issue.

Also, as you know, she'll be announcing that the College and University Report that afternoon. We never discussed a press release (you did one for the interim report), and it may be too late now, but should it be considered?

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and Government Entities
[redacted]

**From:** Flax Nikole C
**Sent:** Friday, April 19, 2013 11:44 AM
**To:** Lerner Lois G; Lemons Terry L
**Cc:** Grant Joseph H; Zarin Roberta B
**Subject:** Re: Georgetown

We will pull something together - can you let me know when/if you are open later today to discuss other topics?

**From:** Lerner Lois G
**Sent:** Friday, April 19, 2013 11:37 AM Eastern Standard Time
**To:** Flax Nikole C; Lemons Terry L
**Cc:** Grant Joseph H; Zarin Roberta B
**Subject:** Georgetown

**We have numerous speakers over 2 days at the conference, starting on Wed. I am sure we will be asked about the furloughs. There is already press out there on the NTEU issue, so I don't**

**think we can avoid saying something. I'm thinking it would be best for me to lead off with some statement at the beginning before I get into my formal written speech to respond before the question comes. That way, all that follow me can either say exactly what I say or refer the questioner back to my earlier remarks. Otherwise I fear we may have someone get nervous and say more than we planned. Does that sound like a plan? If so, can we get parameters of what my statement should look like? Sorry, but this isn't one we can skate by. Thanks**

*Lois G. Lerner*
Director of Exempt Organizations

**From:** Rosenbaum Monice L
**Sent:** Thursday, September 30, 2010 10:18 AM
**To:** Griffin Kenneth M
**Subject:** FW: EO Tax Journal 2010-139

Ken,
You may already be a subscriber to Mr. Streckfus's journal, but below is his brief summary of the DC Bar lunch meeting. He hopes a transcript will be available soon. Monice

---

**From:** paul streckfus [redacted]
**Sent:** Thursday, September 30, 2010 11:07 AM
**To:** paul streckfus
**Subject:** EO Tax Journal 2010-139

*From the Desk of Paul Streckfus,*
*Editor, EO Tax Journal*

**Email Update 2010-139 (Thursday, September 30, 2010)**
Copyright 2010 Paul Streckfus

Two events occurred yesterday at about the same time. One was the release of a letter (reprinted below) by the Chairman of the Senate Finance Committee, Senator Max Baucus. The other was a panel discussion titled "Political Activities of Exempt Organizations This Election Cycle" sponsored by the D.C. Bar, from which I hope to have a transcript in the near future.

After reading Senator Baucus' letter and accompanying news release, my sense is that Senator Baucus should have been at the D.C. Bar discussion since he is concerned that political campaigns and individuals are manipulating 501(c)(4), (5), and (6) organizations to advance their own political agenda, and he wants the IRS to look into this situation.

At the D.C. Bar discussion, Marc Owens of Caplin & Drysdale, Washington, explained that there is little that the IRS can do on a current, real-time basis to regulate (c)(4)s for two reasons. First, a new (c)(4) does not have to apply for recognition of exemption. Second, a new (c)(4) formed this year would not have to file a Form 990 until next year at the earliest and the IRS would probably not do a substantive review of the filed Form 990 until 2012 at the earliest. By then, Owens joked, the winners are in office, and the losers are in another career.

At the same time that the IRS can do little to regulate new (c)(4)s, it is not even looking at existing (c)(4)s. According to Owens, the IRS has little interest in regulating exempt organizations beyond (c)(3)s. The IRS has "effectively abandoned the field" at a time of heightened political activity by all exempt organizations, including (c)(3)s. Owens added that "we seem to have a haphazard IRS enforcement system now breaking down completely." This results in a corrosive effect on the integrity of exempt organizations in general and a stimulus to evasion of their responsibilities by organizations and their tax advisors.

Karl Sandstrom of Perkins Coie, Washington, was equally negative. According to Sandstrom, the IRS is "a poor vehicle to regulate political activity," in that this is not their focus or interest. In defense of the IRS, he did say Congress was also guilty in foisting upon the IRS regulation of political activity, using section 527 as an example. At the same time, Sandstrom did not see an active IRS as an answer to current concerns. Section 501(c)(4) organizations are just the current vehicle *du jour*. If (c)(4)s are shut down, Sandstrom said many other vehicles remain.

***My guess:*** I doubt if we'll see much of Owens' and Sandstrom's views in the IRS' report to Senator Baucus and the Finance Committee.

* * * * * * * * *

**Senate Committee on Finance News Release**



Appendix 4

For Immediate Release
September 29, 2010

Contact: Scott Mulhauser/Erin Shields
[redacted]

## Baucus Calls On IRS to Investigate Use of Tax-Exempt Groups for Political Activity

**Finance Chairman works to ensure special interests don't use tax-exempt groups to influence communities, spend secret donations**

***Washington, DC*** – Senate Finance Committee Chairman Max Baucus (D-Mont.) today sent a letter to IRS Commissioner Doug Shulman requesting an investigation into the use of tax-exempt groups for political advocacy. Baucus asked for the investigation after recent media reports uncovered instances of political activity by nonprofit organizations secretly backed by individuals advancing personal interests and organizations supporting political campaigns. Under the tax code, political campaign activity cannot be the main purpose of a tax-exempt organization and limits exist on political campaign activities in which these organizations can participate. Tax-exempt organizations also cannot serve private interests. Baucus expressed serious concern that if political groups are able to take advantage of tax-exempt organizations, these groups could curtail transparency in America's elections because nonprofit organizations do not have to disclose any information regarding their donors.

**"Political campaigns and powerful individuals should not be able to use tax-exempt organizations as political pawns to serve their own special interests. The tax exemption given to nonprofit organizations comes with a responsibility to serve the public interest and Congress has an obligation to exercise the vigorous oversight necessary to ensure they do," said Baucus. "When political campaigns and individuals manipulate tax-exempt organizations to advance their own political agenda, they are able to raise and spend money without disclosing a dime, deceive the public and manipulate the entire political system. Special interests hiding behind the cloak of independent nonprofits threatens the transparency our democracy deserves and does a disservice to fair, honest and open elections."**

Baucus asked Shulman to review major 501(c)(4), (c)(5) and (c)(6) organizations involved in political campaign activity. He asked the Commissioner to determine if these organizations are operating for the organization's intended tax exempt purpose, to ensure that political activity is not the organization's primary activity and to determine if they are acting as conduits for major donors advancing their own private interests regarding legislation or political campaigns, or are providing major donors with excess benefits. Baucus instructed Shulman to produce a report for the Committee on the agency's findings as quickly as possible. Baucus' full letter to Commissioner Shulman follows here.

September 28, 2010

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Via Electronic Transmission

Dear Commissioner Shulman:

The Senate Finance Committee has jurisdiction over revenue matters, and the Committee is responsible for conducting oversight of the administration of the federal tax system, including matters involving tax-exempt organizations. The Committee has focused extensively over the past decade on whether tax-exempt groups have been used for lobbying or other financial or political gain.

The central question examined by the Committee has been whether certain charitable or social welfare organizations qualify for the tax-exempt status provided under the Internal Revenue Code.

Recent media reports on various 501(c)(4) organizations engaged in political activity have raised serious questions about whether such organizations are operating in compliance with the Internal Revenue Code.

The law requires that political campaign activity by a 501(c)(4), (c)(5) or (c)(6) entity must not be the primary purpose of the organization.

If it is determined the primary purpose of the 501(c)(4), (c)(5) and (c)(6) organization is political campaign activity the tax exemption for that nonprofit can be terminated.

Even if political campaign activity is not the primary purpose of a 501(c)(4), (c)(5), and (c)(6) organization, it must notify its members of the portion of dues paid due to political activity or pay a proxy tax under Section 6033(e).

Also, tax-exempt organizations and their donors must not engage in private inurement or excess benefit transactions. These rules prevent private individuals or groups from using tax-exempt organizations to benefit their private interests or to profit from the tax-exempt organization's activities.

A September 23 New York Times article entitled "Hidden Under a Tax-Exempt Cloak, Private Dollars Flow" described the activities of the organization Americans for Job Security. An Alaska Public Office Commission investigation revealed that AJS, organized as an entity to promote social welfare under 501(c)(6), fought development in Alaska at the behest of a "local financier who paid for most of the referendum campaign." The Commission report said that "Americans for Job Security has no other purpose other than to cover money trails all over the country." The article also noted that "membership dues and assessments ... plunged to zero before rising to $12.2 million for the presidential race."

A September 16 Time Magazine article examined the activities of Washington D.C. based 501(c)(4) groups planning a "$300 million ... spending blitz" in the 2010 elections. The article describes a group transforming itself into a nonprofit under 501(c)(4) of the tax code, ensuring that they would not have to "publically disclose any information about its donors."

These media reports raise a basic question: Is the tax code being used to eliminate transparency in the funding of our elections -- elections that are the constitutional bedrock of our democracy? They also raise concerns about whether the tax benefits of nonprofits are being used to advance private interests.

With hundreds of millions of dollars being spent in election contests by tax-exempt entities, it is time to take a fresh look at current practices and how they comport with the Internal Revenue Code's rules for nonprofits.

I request that you and your agency survey major 501(c)(4), (c)(5) and (c)(6) organizations involved in political campaign activity to examine whether they are operated for the organization's intended tax-exempt purpose and to ensure that political campaign activity is not the organization's primary activity. Specifically you should examine if these political activities reach a primary purpose level -- the standard imposed by the federal tax code -- and if they do not, whether the organization is complying with the notice or proxy tax requirements of Section 6033(e). I also request that you or your agency survey major 501(c)(4), (c)(5), and (c)(6) organizations to determine whether they are acting as conduits for major donors advancing their own private interests regarding legislation or political campaigns, or are providing major donors with excess benefits.

Possible violation of tax laws should be identified as you conduct this study.

Please report back to the Finance Committee as soon as possible with your findings and recommended actions regarding this matter.

Based on your report I plan to ask the Committee to open its own investigation and/or to take appropriate legislative action.

Sincerely,

Max Baucus, Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510-6200

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# Action Routing Sheet

Issa/Jordan

| Request for Signature of | e-trak Control Number | Due date |
|---|---|---|
| Lois G. Lerner | 2012 [redacted] | 04/25/2012 |

Subject

EO response to The Honorable Jim Jordan, Chairman, Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending.

| Reviewing Office | Support Staff Initial / Date | Reviewer Initial / Date | Comment |
|---|---|---|---|
| NaLee Park | 4/25/12 | | |
| Dawn Marx | 4/25/12 | | |
| Lois Lerner | | 4/25/12 | |
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Summary

| Prepared By | Phone number | Office Location / Building | Return to |
|---|---|---|---|
| Dawn Marx | [redacted] | | |

Form **14074** (Rev. 9-2010) Catalog Number 53167M publish.no.irs.gov Department of the Treasury - **Internal Revenue Service**

Appendix 7

IRSR0000014425

3. Educate the public through advocacy/legislative activities to make America a better place to live.
4. Statements in the case file that are critical of the how the country is being run.

*John Shafer*
*Group Manager*
*SE:T:EO:RA:D:1:7838*
[redacted]

---

**From:** Thomas Cindy M
**Sent:** Thursday, June 02, 2011 12:46 AM
**To:** Shafer John H
**Cc:** Esrig Bonnie A; Bowling Steven F
**Subject:** Tea Party Cases - NEED CRITERIA
**Importance:** High

John,

Could you send me an email that includes the criteria screeners use to label a case as a "tea party case?" BOLO spreadsheet includes the following:

Organizations involved with the Tea Party movement applying for exemption under 501(c)(3) or 501(c)(4).

Do the applications specify/state "tea party?" If not, how do we know applicant is involved with the tea party movement?

I need to forward to Holly per her request below. Thanks.

---

**From:** Melahn Brenda
**Sent:** Wednesday, June 01, 2011 3:08 PM
**To:** Paz Holly O; Thomas Cindy M
**Subject:** RE: group of cases

Holly - we will UPS a copy of the case in #1 below to your attention tomorrow. It should be there Monday. I'm sure Cindy will respond to #2.

Brenda

---

**From:** Paz Holly O
**Sent:** Wednesday, June 01, 2011 2:21 PM
**To:** Thomas Cindy M

**Cc:** Melahn Brenda
**Subject:** group of cases

re: Tea Party cases

Two things re: these cases:

1. Can you please send me a copy of the Crossroads Grassroots Policy Strategies ([redacted]) application? Lois wants Judy to take a look at it so she can summarize the issues for Lois.

2. What criteria are being used to label a case a "Tea Party case"? We want to think about whether those criteria are resulting in over-inclusion.

Lois wants a briefing on these cases. We'll take the lead but would like you to participate. We're aiming for the week of 6/27.

Thanks!

Holly

**From:** Paz Holly O
**Sent:** Thursday, April 07, 2011 10:33 AM
**To:** Seto Michael C
**Subject:** FW: sensitive (c)(3) and (c)(4) applications
FYI

---

**From:** Paz Holly O
**Sent:** Thursday, April 07, 2011 10:26 AM
**To:** Kindell Judith E; Lerner Lois G
**Cc:** Light Sharon P; Letourneau Diane L; Neuhart Paige
**Subject:** RE: sensitive (c)(3) and (c)(4) applications

The last information I have is that there are approx. 40 Tea Party cases in Determs. With so many EOT and Guidance folks tied up with ACA (cases and Guidance) and the possibility looming that we may have to work reinstatement cases up here to prevent a backlog in Determs, I have serious reservations about our ability to work all of the Tea Party cases out of this office.

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**From:** Kindell Judith E
**Sent:** Thursday, April 07, 2011 10:16 AM
**To:** Lerner Lois G; Paz Holly O
**Cc:** Light Sharon P; Letourneau Diane L; Neuhart Paige
**Subject:** sensitive (c)(3) and (c)(4) applications

I just spoke with Chip Hull and Elizabeth Kastenberg about two cases they have that are related to the Tea Party - one a (c)(3) application and the other a (c)(4) application. I recommended that they develop the private benefit argument further and that they coordinate with Counsel. They also mentioned that there are a number of other (c)(3) and (c)(4) applications of orgs related to the Tea Party that are currently in Cincinnati. Apparently the plan had been to send one of each to DC to develop a position to be applied to the others. Given the sensitivity of the issue and the need (I believe) to coordinate with Counsel, I think it would be beneficial to have the other cases worked in DC as well. I understand that there may be TAS inquiries on some of the cases.

**From:** Lerner Lois G <[redacted]
**Sent:** Friday, March 02, 2012 9:20 AM
**To:** Cook Janine
**Subject:** RE: Advocacy orgs

If only you could help--we're going to get creamed being able to provide the guidance piece ASAP will be the best--thanks
*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Cook Janine [[redacted]
**Sent:** Friday, March 02, 2012 8:58 AM
**To:** Lerner Lois G
**Subject:** FW: Advocacy orgs

Fun all around. (Streckfus email today). We're working diligently on reviewing the advocacy guide. Let us know if you want our assistance on anything else.

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**1 - House Oversight Chairman Seeks Additional Information from the IRS on Tax-Exempt Sector Compliance, as Reports of IRS Questioning Grassroots Political Groups Raises New Concerns**

March 1, 2012

Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Shulman:

On October 6, 2011, I wrote to you requesting information about the status of various IRS compliance efforts involving the tax-exempt sector and issues related to audits of tax-exempt organizations [for this letter, see email update 2011-166]. While awaiting a complete response to that letter, I have since heard the IRS has been questioning new tax-exempt applicants, including grassroots political entities such as Tea Party groups, about their operations and donors [for background, see email update 2012-38]. In addition to the unanswered questions from my October 6, 2011, letter, I have additional questions relating to the IRS' oversight of applications for tax exemption for new organizations.

In particular, I am seeking additional information as it relates to the IRS review of new applications for section 501(c)(3) and (c)(4) tax-exempt status, including answers to the questions detailed below. Please provide your responses no later than March 15, 2012.

1. How many new tax-exempt organizations has the IRS recognized each year since 2008?

2. How many new applications for 501(c)(3) and (c)(4) tax-exempt status have been received by the IRS since 2008? Provide a breakdown by year and type of organization.

3. What is the IRS process for reviewing each tax-exempt status application? Is this process the same for entities applying for section 501(c)(3) and (c)(4) tax-exempt status? Please describe the process for both section 501(c)(3) and (c)(4) applications in detail.

4. Your preliminary response in my October 6, 2011, letter stated that, "if the application is substantially complete, the IRS may retain the application and request additional information as needed." How does the IRS determine that an application for tax-exempt status is "substantially complete?" Please provide guidelines or any other materials used in this process.

5. Does the IRS have standard procedures or forms it uses to "request additional information as needed" from applicants seeking tax-exempt status? Please provide any forms and related materials used.

6. Does the IRS select applications for "follow-up" on an automated basis or is there an office or individual responsible for selecting incomplete applications? Please explain and provide details on any automated system used for these purposes. If decisions are made on an individual basis, please provide the guidelines and any related materials used.

7. How many tax-exempt applications since 2008 have been selected for "follow-up"? How many entities selected for follow-up were granted tax-exempt status?

Should you have any questions regarding this request, please contact *** or *** at [redacted].

Sincerely,

/s/ Charles Boustany, Jr., MD
Chairman
Subcommittee on Oversight
Committee on Ways and Means
House of Representatives
Washington, D.C.

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**IRS Battling Tea Party Groups Over Tax-Exempt Status**
By Alan Fram, *HuffPost Politics*. March 1, 2012

WASHINGTON -- The Internal Revenue Service is embroiled in battles with tea party and other conservative groups who claim the government is purposely frustrating their attempts to gain tax-exempt status. The fight features instances in which the IRS has asked for voluminous details about the groups' postings on social networking sites like Twitter and Facebook, information on donors and key members' relatives, and copies of all literature they have distributed to their members, according to documents provided by some organizations.

While refusing to comment on specific cases, IRS officials said they are merely trying to gather enough information to decide whether groups qualify for the tax exemption. Most organizations are applying under section 501(c)(4) of the federal tax code, which grants tax-exempt status to certain groups as long as they are not primarily involved in activity that could influence an election, a determination that is up to the IRS. The tax agency would seem a natural target for tea party groups, which espouse smaller and less intrusive government and lower taxes. Yet over the years, the IRS has periodically been accused of political vendettas by liberals and conservatives alike, usually without merit, tax experts say.

The latest dispute comes early in an election year in which the IRS is under pressure to monitor tax-exempt groups -- like the Republican-leaning Crossroads GPS and Democratic-leaning Priorities USA -- which can shovel unlimited amounts of money to allies to influence campaigns, even while not being required to disclose their donors.

Conservatives say dozens of groups around the country have recently had similar experiences with the IRS and say its information demands are intrusive and politically motivated. They complain that the sheer size and detail of material the agency wants is designed to prevent them from achieving the tax designations they seek. "It's intimidation," said Tom Zawistowski, president of the Ohio Liberty Council, a coalition of tea party groups in the state. "Stop doing what you're doing, or we'll make your life miserable."

Authorities on the laws governing tax-exempt organizations expressed surprise at some of the IRS's requests, such as the volume of detail it is seeking and the identity of donors. But they said it is the agency's job to learn what it can to help decide whether tax-exempt status is warranted. "These tea party groups, a lot of their material makes them look and sound like a political party," said Marcus S. Owens, a lawyer who advises tax-exempt organizations and who spent a decade heading the IRS division that oversees such groups. "I think the IRS is trying to get behind the rhetoric and figure out whether they are, at their core, a political party," or a group that would qualify for tax-exempt status.

The tea party was first widely emblazoned on the public's mind for their noisy opposition to President Barack Obama's health care overhaul at congressional town hall meetings in the summer of 2009. Support from its activist members has since helped nominate and elect conservative candidates around the country, though group leaders say they are chiefly educational organizations.

They say they mostly do things like invite guests to discuss issues and teach members about the Constitution and how to request government documents under the Freedom of Information Act. Some say they occasionally endorse candidates and seek to register voters. "We're doing nothing more than what the average citizen does in getting involved," said Phil Rapp, executive director of the Richmond Tea Party in Virginia. "We're not supporting candidates; we are supporting what we see as the issues."

One group, the Kentucky 9/12 Project, said it applied for tax-exempt status in December 2010. After getting a prompt IRS acknowledgement of its application, the organization heard nothing until it got an IRS letter two weeks ago requesting more information, said the project's director, Eric Wilson. That letter, which Wilson provided to the AP, asked 30 questions, many with multiple parts, and gave the group until March 6 to respond.

Information requested included "details regarding all of your activity on Facebook and Twitter" and whether top officials' relatives serve in other organizations or plan to run for elective office. The IRS also sought the political affiliation of every person who has provided the group with educational services and minutes of every board meeting "since your creation."

"This is a modern-day witch hunt," said Wilson, whose 9/12 group and others around the country were inspired by conservative activist Glenn Beck. Other conservative organizations described similar experiences.

A January IRS letter to the Richmond Tea Party requests the names of donors, the amounts each contributed and details on how the funds were used. The Ohio Liberty Council received an IRS letter last month seeking the credentials of speakers at the group's public events. In a February letter, the IRS asked the Waco Tea Party of Texas whether its officials have a "close relationship" with any candidates for office or political parties, and was asked for events they plan this year. "The crystal ball I was issued can't predict the future," and future events will depend on factors like what Congress does this year, said Toby Marie Walker, president of the Waco group.

The IRS provided a five-paragraph written response to a reporter's questions about its actions. It noted that the tax code allows tax-exempt status to "social welfare" groups, which are supposed to promote the common good of the community. Groups can engage in some political activities "so long as, in the aggregate, these non-exempt activities are not its primary activities," the IRS statement said. "Career civil servants make all decisions on exemption applications in a fair, impartial manner and do so without regard to political affiliation or ideology," the agency said.

There were 139,000 groups in the U.S. with 501(c)(4) tax-exempt status in 2010, the latest year of available IRS data. More than 1,700 organizations applied for that designation in 2010 while over 1,400 were approved. Such volume means it might take months for the IRS to assign applications to agents, said Lloyd Hitoshi Mayer, a Notre Dame law professor who specializes in election and tax law.

Ever since a 2010 Supreme Court decision allowing outside groups to spend unlimited funds in elections, such organizations have been under scrutiny. Two nonpartisan campaign finance watchdogs called on the IRS last fall to strip some large groups of tax-exempt status, claiming they engage in so much political activity that they don't qualify for the designation. Last month, seven Democratic senators asked the IRS to investigate whether some groups were improperly using tax-exempt status -- they didn't name any organizations -- because those groups are "improperly engaged in a substantial or even a predominant amount of campaign activity."

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**From:** Ruth.Madrigal[redacted]
**Sent:** Thursday, June 14, 2012 3:10 PM
**To:** Judson Victoria A; Cook Janine; Lerner Lois G; Marks Nancy J
**Subject:** 501(c)(4)s - From the Nonprofit Law Prof Blog

Don't know who in your organizations is keeping tabs on c4s, but since we mentioned potentially addressing them (off-plan) in 2013, I've got my radar up and this seemed interesting...

Bad News for Political 501(c)(4)s: 4th Circuit Upholds "Major Purpose" Test for Political Committees
In a case with potentially major ramifications for politically active section 501(c)(4) organizations, the U.S. Court of Appeals for the Fourth Circuit has upheld the Federal Election Commission's "major purpose" test for determining whether an organization is a political committee or PAC and so subject to extensive disclosure requirements. As described in the opinion, under the major purpose test "the Commission
first considers a group's political activities, such as spending on a particular electoral or issue-advocacy campaign, and then it evaluates an organization's 'major purpose,' as revealed by that group's public statements, fundraising appeals, government filings, and organizational documents" (citations omitted). The FEC's summary of the litigation details the challenge made in this case:

A group or association that crosses the $1,000 contribution or expenditure threshold will only be deemed a political committee if its "major purpose" is to engage in federal campaign activity. [The plaintiff] claims that the FEC set forth an enforcement policy regarding PAC status in a policy statement and that this enforcement policy is "based on an ad hoc, case-by-case, analysis of vague and impermissible factors applied to undefined facts derived through broad-ranging, intrusive, and burdensome investigations . . . that, in themselves, can often shut down an organization, without adequate bright lines to protect issue advocacy in this core First Amendment area." [The plaintiff] asks the court to find this "enforcement policy" unconstitutionally vague and overbroad and in excess of the FEC's statutory authority.

In a unanimous opinion, the court concluded that the FEC's current major purpose test is "a sensible approach to determining whether an organization qualifies for PAC status. And more importantly the Commission's multi-factor major-purpose test is consistent with Supreme Court precedent and does not unlawfully deter protected speech." In doing so, the court chose to apply the less stringent "exacting scrutiny" standard instead of the "strict scrutiny" standard because, in the wake of Citizens United, political committee status only imposes disclosure and organizational requirements but no other restrictions. While the plaintiff here (The Real Truth About Abortion, Inc., formerly known as The Real Truth About Obama, Inc.) is a section 527 organization for federal tax purposes, the same test would apply to other types of politically active organizations, including section 501(c)(4) entities.

Hat Tip: Election Law Blog

LHM

**M. Ruth M. Madrigal**
Office of Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, DC 20220

[redacted](direct)
[redacted]

# Increase in (c)(3)/(c)(4) Advocacy Org. Applications

**Background:**

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.

- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
  - "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
  - Issues include government spending, government debt or taxes
  - Education of the public by advocacy/lobbying to "make America a better place to live"
  - Statements in the case file criticize how the country is being run

- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved.

- Two sample cases were transferred to EOT, a (c)(3) and a (c)(4).
  - The (c)(4) stated it will conduct advocacy and political intervention, but political intervention will be 20% or less of activities. A proposed favorable letter has been sent to Counsel for review.
  - The (c)(3) stated it will conduct "insubstantial" political intervention and it has ties to politically active (c)(4)s and 527s. A proposed denial is being revised by TLS to incorporate the org.'s response to the most recent development letter.

- EOT is assisting EOD by providing technical advice (limited review of application files and editing of development letters).

**EOD Request:**

- EOD requests guidance in working these cases in order to promote uniform handling and resolution of issues.

**Options for Next Steps:**

- Assign cases for full development to EOD agents experienced with cases involving possible political intervention. EOT provides guidance when EOD agents have specific questions.

- EOT composes a list of issues or political/lobbying indicators to look for when investigating potential political intervention and excessive lobbying, such as reviewing website content, getting copies of educational and fundraising materials, and close scrutiny of expenditures.

- Establish a formal process similar to that used in healthcare screening where EOT reviews each application on TEDS and highlights issues for development.

- Transfer cases to EOT to be worked.

- Include pattern paragraphs on the political intervention restrictions in all favorable letters.

- Refer the organizations that were granted exemption to the ROO for follow-up.

**Cautions:**

- These cases and issues receive significant media and congressional attention.

- The determinations process is representational, therefore it is extremely difficult to establish that an organization will intervene in political campaigns at that stage.

**From:** Paz Holly O
**Sent:** Thursday, January 31, 2013 4:15 AM
**To:** Paterson Troy D TIGTA
**Cc:** Lerner Lois G
**Subject:** RE: E-Mail Retention Question

Troy,

I'm sorry we won't get to see you today. We have reached out to determine the appropriate contact regarding your question below and have been told that, if this data request is part of e-Discovery, the coordination needs to go through Chief Counsel. The person to contact regarding e-Discovery requests is Glenn Melcher. His email address is [redacted] and his phone number is [redacted]

Holly

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**From:** Paterson Troy D TIGTA [redacted]
**Sent:** Thursday, January 24, 2013 8:51 AM
**To:** Paz Holly O
**Subject:** E-Mail Retention Question

Holly,

Good morning.

During a recent briefing, I mentioned that we do not have the original e-mail from May 2010 stating that "Tea Party" applications should be forwarded to a specific group for additional review. After thinking it through, I was wondering about the IRS's retention or backup policy regarding e-mails. Do you know who I could contact to find out if this e-mail may have been retained?

Troy
[redacted]

**From:** Paz Holly O
**Sent:** Wednesday, June 20, 2012 1:14 PM
**To:** Lerner Lois G
**Subject:** FW: Additional procedures on cases with advocacy issues - before issuing any favorable or initial denial ruling

FYI

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**From:** Seto Michael C
**Sent:** Wednesday,

June 20, 2012 2:11 PM
**To:** McNaughton Mackenzie P; Salins Mary J;

Shoemaker Ronald J; Lieber Theodore R
**Cc:** Grodnitzky Steven; Megosh

Andy; Giuliano Matthew L; Fish David L; Paz Holly O
**Subject:**

Additional procedures on cases with advocacy issues - before issuing any

favorable or initial denial ruling

Please

inform the reviewers and staff in your groups that before issuing any

favorable or initial denial rulings on any cases with advocacy issues, the

reviewers must notify me and you via e-mail and get our

approval. No favorable or initial denial rulings can be issued

without your and my approval. The e-mail notification includes the

name of the case, and a synopsis of facts and denial rationale. I may

require a short briefing depending on the facts and circumstances of the

particular case.

If you have any

questions, please let me know.

Thanks,

Mike

**From:** Lerner Lois G
**Sent:** Wednesday, May 02, 2012 9:40 AM
**To:** Miller Steven T
**Subject:** A Question

**I'm wondering if**

**you might be able to give me a better sense of your expectations regarding roles**

**and responsibilities for the c4 matters. I understand you have asked Nan**

**to take a deep look at the what is going on and make recommendations. I'm**

**fine with that. Then there was the discussion yesterday about how we plan**

**to approach the issues going forward. That is where the confusion**

**lies. What are your expectations as to who is implementing the**

**plan?**

**Prior to that**

**meeting, unbeknownst to me, Cathy had made comments regarding the**

**guidance--which Nan knew about. Nan then directed one of my staff to meet**

**with Cathy and start moving in a new direction. The staff person came to**

**me and I talked to Nan, suggesting before we moved, we needed to hear from you,**

**which is where we are now.**

**We're all on good**

**terms and we all want to do the best, but I fear that unless there's a better**

**understanding of roles, we may step on each others toes without intending to.**

**Your thoughts please. Thanks**

*Lois G. Lerner*

Director of Exempt Organizations

**From:** Lerner Lois G
**Sent:** Tuesday, May 17, 2011 10:37 AM
**To:** Urban Joseph J
**Subject:** Re: BNA - IRS Answers Few Questions Regarding Audits Of Donors Giving to Section 501(c)(4) Groups

The constitutional issue is the big Citizens United issue. I'm guessing no one wants that going forward Lois G. Lerner-------
---------- Sent from my BlackBerry Wireless Handheld

------Original Message------
From: Joseph Urban
To: Lois Call in Number
Subject: RE: BNA - IRS Answers Few Questions Regarding Audits Of Donors Giving to Section 501(c)(4) Groups
Sent: May 17, 2011 10:39 AM

The Counsel function with jurisdiction over the gift tax, Passthroughs and Special Industries, is going to have to come up with a legal position on what type of transfers of money or property to a section 501(c)(4) organization are subject to the gift tax. There is also a constitutional angle that has been raised - whether imposing the tax on a contribution for political purposes is an infringement on donors' First Amendment free speech rights, as well as an attack on section 501(c)(4) organizations engaged in permissible political activities. The PS&I lawyers have called a meeting for Friday with their boss, and perhaps other higher-ups in Counsel. Judy, Justin and I are going. Susan Brown and Don Spellman will be there from TE/GE Counsel, as will Nan Marks. There are some tough issues for the gift tax people to work through, and I am sure they will be running their conclusions past the Chief Counsel, if not Treasury. It would certainly be an interesting result if a self-interested earmarked donation to a (c)(4) for a political campaign would not subject to the gift tax, but a donation for the selfless general support of a (c)(4)s public interest work would be.
Stay tuned.

-----Original Message-----
From: Lerner Lois G
Sent: Tuesday, May 17, 2011 10:04 AM
To: Urban Joseph J
Subject: Re: BNA - IRS Answers Few Questions Regarding Audits Of Donors Giving to Section 501(c)(4) Groups

So. What's your take on where this will go? Reminds me of Marv's staff draft on governance

Lois G. Lerner----------

------Original Message Truncated------



Appendix 22

**To:** Eldridge Michelle L; Zarin Roberta B; Lemons Terry L; Burke Anthony
**Cc:** Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown

I will now be speaking somewhere between 11-11:30 depending on when previous speaker finishes. I amy or may not be adding some remarks that are being discussed at a higher level. If approved, I have not been told whether those remarks will be in the written speech, or I will simply give them orally. There amy be a desire to get the speech up ASAP if the new proposed language is added to the draft--these are Nikole questions. Right now, though, we're simple on hold.

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Eldridge Michelle L
**Sent:** Tuesday, April 23, 2013 9:55 AM
**To:** Lerner Lois G; Zarin Roberta B; Lemons Terry L; Burke Anthony
**Cc:** Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown

I'm sorry--I've lost track. What time is your speech? Given timing of other stuff that day--we may be looking at posting both in the afternoon. I'm sure this will continue to be discussed...as I hear more details, I will pass it along. Please let me know what you are hearing as well. Thanks. --Michelle

---

**From:** Lerner Lois G
**Sent:** Monday, April 22, 2013 6:49 PM
**To:** Zarin Roberta B; Lemons Terry L; Eldridge Michelle L; Burke Anthony
**Cc:** Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown
**Importance:** High

Hmm--I was thinking the speech would go up right after I speak and the report would go up later in the afternoon. Will that work?

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Zarin Roberta B
**Sent:** Monday, April 22, 2013 1:32 PM
**To:** Lemons Terry L; Eldridge Michelle L; Burke Anthony
**Cc:** Lerner Lois G; Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown

Thanks, but Melaney deserves credit for that one! We are planning to post Lois' speech, along with the report, Thursday afternoon

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and Government Entities
[redacted]

**From:** Lemons Terry L
**Sent:** Monday, April 22, 2013 1:10 PM
**To:** Zarin Roberta B; Eldridge Michelle L; Burke Anthony
**Cc:** Lerner Lois G; Partner Melaney J; Marx Dawn R
**Subject:** RE: Georgetown

Bobby – good catch on the news release. Think we should try doing a short one since we did the interim one. Think text should track what we did before (below.) Anthony Burke will be reaching out to you. Think we need text by mid-day Tuesday so we can get through clearance channels on third floor and Treasury.

Also possible we may post text of Thursday speech on IRS.gov.

Thanks.

**From:** Zarin Roberta B
**Sent:** Monday, April 22, 2013 11:09 AM
**To:** Lemons Terry L; Eldridge Michelle L
**Cc:** Lerner Lois G; Partner Melaney J; Marx Dawn R
**Subject:** FW: Georgetown

Fun for the week:

Do you know if we have language Lois can use re: the furlough? (see below.) I'm sure other IRS speakers are facing the same issue.

Also, as you know, she'll be announcing that the College and University Report that afternoon. We never discussed a press release (you did one for the interim report), and it may be too late now, but should it be considered?

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and Government Entities
[redacted]

**From:** Flax Nikole C
**Sent:** Friday, April 19, 2013 11:44 AM
**To:** Lerner Lois G; Lemons Terry L
**Cc:** Grant Joseph H; Zarin Roberta B
**Subject:** Re: Georgetown

We will pull something together - can you let me know when/if you are open later today to discuss other topics?

**From:** Lerner Lois G
**Sent:** Friday, April 19, 2013 11:37 AM Eastern Standard Time
**To:** Flax Nikole C; Lemons Terry L
**Cc:** Grant Joseph H; Zarin Roberta B
**Subject:** Georgetown

**We have numerous speakers over 2 days at the conference, starting on Wed. I am sure we will be asked about the furloughs. There is already press out there on the NTEU issue, so I don't**

**think we can avoid saying something. I'm thinking it would be best for me to lead off with some statement at the beginning before I get into my formal written speech to respond before the question comes. That way, all that follow me can either say exactly what I say or refer the questioner back to my earlier remarks. Otherwise I fear we may have someone get nervous and say more than we planned. Does that sound like a plan? If so, can we get parameters of what my statement should look like? Sorry, but this isn't one we can skate by. Thanks**

*Lois G. Lerner*
Director of Exempt Organizations

**From:** Kall Jason C
**Sent:** Tuesday, January 10, 2012 9:09 PM
**To:** Lerner Lois G
**Cc:** Ghougasian Laurice A; Fish David L; Paz Holly O; Downing Nanette M
**Subject:** Workplan and background on how we started the self declarer project

Lois,

I found the string of e-mails that started us down the path of what has become the c-4, 5, 6 self declarer project. Our curiosity was not from looking at the 990 but rather data on c-4 self declarers.

*Jason Kall*

Manager, EO Compliance Strategies and Critical Initiatives
[redacted]

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**From:** Chasin Cheryl D
**Sent:** Thursday, September 16, 2010 8:59 AM
**To:** Lerner Lois G; Kindell Judith E; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Subject:** RE: EO Tax Journal 2010-130

That's correct. These are all status 36 organizations, which means no application was filed.

Cheryl Chasin
[redacted]

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**From:** Lerner Lois G
**Sent:** Thursday, September 16, 2010 9:58 AM
**To:** Chasin Cheryl D; Kindell Judith E; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Subject:** Re: EO Tax Journal 2010-130

Ok guys. We need to have a plan. We need to be cautious so it isn't a per se political project. More a c4 project that will look at levels of lobbying and pol. activity along with exempt activity. Cheryl- I assume none of those came in with a 1024?
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

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**From:** Chasin Cheryl D
**To:** Lerner Lois G; Kindell Judith E; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Sent:** Wed Sep 15 14:54:38 2010
**Subject:** RE: EO Tax Journal 2010-130

It's definitely happening. Here are a few organizations (501(c)(4), status 36) that sure sound to me like they are engaging in political activity:

[redacted]

I've also found (so far) 94 homeowners and condominium associations, a VEBA, and legal defense funds set up to benefit specific individuals.

Cheryl Chasin
[redacted]

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**From:** Lerner Lois G
**Sent:** Wednesday, September 15, 2010 1:51 PM
**To:** Kindell Judith E; Chasin Cheryl D; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Subject:** RE: EO Tax Journal 2010-130

I'm not saying this is correct--but there is a perception out there that that is what is happening. My guess is most who conduct political activity never pay the tax on the activity and we surely should be looking at that. Wouldn't that be a surprising turn of events. My object is not to look for political activity--more to see whether self-declared c4s are really acting like c4s. Then we'll move on to c5,c6,c7--it will fill up the work plan forever!

*Lois G. Lerner*
Director, Exempt Organizations

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**From:** Kindell Judith E
**Sent:** Wednesday, September 15, 2010 1:03 PM
**To:** Lerner Lois G; Chasin Cheryl D; Ghougasian Laurice A
**Cc:** Lehman Sue
**Subject:** RE: EO Tax Journal 2010-130

My big concern is the statement "some (c)(4)s are being set up to engage in political activity" - if they are being set up to engage in political campaign activity they are not (c)(4)s. I think that Cindy's people are keeping an eye out for (c)(4)s set up to influence political campaigns, but we might want to remind them. I also agree that it is about time to start looking at some of those organizations that file Form 990 without applying for recognition -whether or not they are involved in politics.

---

**From:** Lerner Lois G
**Sent:** Wednesday, September 15, 2010 12:27 PM

**To:** Chasin Cheryl D; Ghougasian Laurice A; Kindell Judith E
**Cc:** Lehman Sue
**Subject:** FW: EO Tax Journal 2010-130

Not sure you guys get this directly. I'm really thinking we do need a c4 project next year

*Lois G. Lerner*
Director, Exempt Organizations

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**From:** paul streckfus [redacted]
**Sent:** Wednesday, September 15, 2010 12:20 PM
**To:** paul streckfus
**Subject:** EO Tax Journal 2010-130

*From the Desk of Paul Streckfus,*
*Editor, EO Tax Journal*

**Email Update 2010-130 (Wednesday, September 15, 2010)**
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Yesterday, I asked, "Is 501(c)(4) Status Being Abused?" I can hardly keep up with the questions and comments this query has generated. As noted yesterday, some (c)(4)s are being set up to engage in political activity, and donors like them because they remain anonymous. Some commenters are saying, "Why should we care?", others say these organizations come and go with such rapidity that the IRS would be wasting its time to track them down, others say (c)(3) filing requirements should be imposed on (c)(4)s, and so it goes.

Former IRSer Conrad Rosenberg seems to be taking a leave them alone view:

"I have come, sadly, to the conclusion that attempts at revocation of these blatantly political organizations accomplish little, if anything, other than perhaps a bit of *in terrorem* effect on some other (usually much smaller) organizations that may be contemplating similar behavior. The big ones are like balloons -- squeeze them in one place, and they just pop out somewhere else, largely unscathed and undaunted. The government expends enormous effort to win one of these cases (on very rare occasion), with little real-world consequence. The skein of interlocking 'educational' organizations woven by the fabulously rich and hugely influential Koch brothers to foster their own financial interests by political means ought to be Exhibit One. Their creations operate with complete impunity, and I doubt that potential revocation of tax exemption enters into their calculations at all. That's particularly true where deductibility of contributions, as with (c)(4)s, is not an issue. Bust one, if you dare, and they'll just finance another with a different name. I feel for the IRS's dilemma, especially in this wildly polarized election year."

A number of individuals said the requirements for (c)(4)s to file the Form 1024 or the Form 990 are a bit of a muddle. My understanding is that (c)(4)s need not file a Form 1024, but generally the IRS won't accept a Form 990 without a Form 1024 being filed. The result is that attorneys can create new (c)(4)s every year to exist for a short time and never file a 1024 or 990. However, the IRS can claim the organization is subject to tax (assuming it becomes aware of its existence) and then the organization must prove it is exempt (by essentially filing the information required by Form 1024 and maybe 990). Not being sure of the correctness of my understanding, I went to the only person who may know more about EO tax law than Bruce Hopkins, and got this response from Marc Owens:

"You are sort of close. It's not quite accurate to state that a (c)(4) 'need not file a Form 1024.' A (c)(4) is not subject to IRC 508, hence it is not required to file an application for tax-exempt status within a particular period of time after its formation. Such an organization is subject, however, to Treas. Reg. Section 1.501(a)-1(a)(2) and (3) which set forth the general requirement that in order to be exempt, an organization must file an application, but for which no particular time period is specified. Once a would-be (c)(4) is formed and it has completed one fiscal year of life, and assuming that it had revenue during the fiscal year, it is required to file a tax return.

"There is no exemption from the return filing requirement for would-be (c)(4)s and failing to file anything is flirting with serious issues. Obviously, few, if any, organizations elect to file a Form 1120 and so file a Form 990 as an alternative and because it comports with the intended tax-exempt status. When such a Form 990 arrives in Ogden, it goes 'unpostable,' i.e., there is no pre-existing master file account to which to 'post' receipt of the return.

"Master file accounts for tax exempts are created by Cincinnati when an application is filed, hence no prior application, no master file account and no place for Ogden to record receipt of the subsequent 990. Such unpostable returns are kicked out of the processing system and sent to a resolution unit that analyzes the problem (there are many reasons a return might be unpostable, such as a typo in an EIN). The processing unit might create a 'dummy' master file account to which to post the return, it might correspond with the filing organization to ascertain the correct return to be filed, or it might refer the matter to TE/GE where it would be assigned to an agent to analyze, essentially instigating the process you describe."

***My query today:*** So where are we? Should the IRS ignore the whole mess? Or should the IRS be concerned with the integrity of the tax exemption system?

I think the IRS needs to keep track of new (c)(4)s as they appear. I'm assuming most political ads identify who is bringing them to you. That's true of the ones I've seen. When the IRS can not identify on its master file a new organization engaged in politicking, it should send a letter of inquiry, saying "Who are you? What is your claimed tax status?" In other words, what I'm saying is that the IRS needs to be more pro-active, and not await the filing of a Form 1024 or 990. I recognize that most of these (c)(4)s may have little income if they spend what they take in, but the EO function has never been about generating revenue. If (c)(4) status is being abused, the IRS needs to take action. If the IRS does not have the tools to get at the problems, then we need for Congress to step in and strengthen the filing requirements.

My biggest concern is that these political (c)(4)s are operating in tandem with (c)(3)s so that donors can claim 170 deductions. Here the IRS needs to have an aggressive audit program in coordination with the Income Tax Division so that 170 deductions are disallowed if a (c)(3) is being used as a conduit to a (c)(4).

I've probably raised new issues, and I've said nothing about section 527. Anyone who wants to fill in some of the blanks, please do so.

**From:** Marks Nancy J
**Sent:** Monday, April 01, 2013 12:16 PM
**To:** Lerner Lois G; Paz Holly O; Fish David L
**Subject:** Re: HMMMM?

Well we'd all like to see some good solid light of day court resolution so hope so
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Sent using BlackBerry

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**From:** Lerner Lois G
**Sent:** Monday, April 01, 2013 12:34 PM Eastern Standard Time
**To:** Marks Nancy J; Paz Holly O; Fish David L
**Subject:** RE: HMMMM?

It's the one that will be next that is "the one."

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Marks Nancy J
**Sent:** Monday, April 01, 2013 12:21 PM
**To:** Lerner Lois G; Paz Holly O; Fish David L
**Subject:** Re: HMMMM?

Some not all would be my guess
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Sent using BlackBerry

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**From:** Lerner Lois G
**Sent:** Monday, April 01, 2013 09:55 AM Eastern Standard Time
**To:** Marks Nancy J; Paz Holly O; Fish David L
**Subject:** Re: HMMMM?

Sorry. These guys are itching for a Constitutional challenge. Not you father's EO
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

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**From:** Marks Nancy J
**Sent:** Friday, March 29, 2013 05:55 PM Eastern Standard Time
**To:** Lerner Lois G; Paz Holly O; Fish David L
**Subject:** Re: HMMMM?

I guess I'd never assume that. Court is an expensive crap shoot with the potential for a public record the org might not want. This changes the odds some not sure it is a lot (unless most have no liability)

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Sent using BlackBerry

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**From**: Lerner Lois G
**Sent**: Friday, March 29, 2013 05:43 PM Eastern Standard Time
**To**: Marks Nancy J; Paz Holly O; Fish David L
**Subject**: RE: HMMMM?

When we were talking, we were thinking they would all want to go to court--so we figured, why not get there sooner and save Appeals some time--they will be dying with these cases. We were thinking c3 rules. As to taxes owed--if IRS hasn't assessed, it's hard to get to court without paying yourself and making a claim

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Marks Nancy J
**Sent:** Friday, March 29, 2013 5:37 PM
**To:** Lerner Lois G; Paz Holly O; Fish David L
**Subject:** RE: HMMMM?

I may be missing something. Designating them would not guarantee litigation because no one can force the taxpayer into court but assuming they have some tax liability resulting from the loss of exempt status litigation is certainly possible and the designation would have cut off appeals time right? (I'll admit I have not looked at designation procedures in some time). I agree release of denials is unlikely to create a public record because of redaction; there will probably be some record arising from taxpayers self disclosing but that issue is no different here than in many places.

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**From:** Lerner Lois G
**Sent:** Friday, March 29, 2013 5:16 PM
**To:** Marks Nancy J; Paz Holly O; Fish David L
**Subject:** HMMMM?

**I was talking to Tom Miller about the redaction process in an effort to give Nikole a feel for how long it takes form a proposed denial to something being public with regard to the denial--a long time. As we talked I had been thinking of ways to shorten things up--such as designating the case for litigation and cutting out the Appeals time. It occurred to me though, that these are c4s, not c3s, so they have no right to go to court unless they owe tax. Without an exam, we can't tell whether they owe tax, and once we deny them, we don't have any ability to examine them--they are on the other side of the IRS. If they want to go to court, I guess they could file and pay taxes for previous years and then claim a refund(maybe?)**

**Bottom line, am I right that designating a c4 for court doesn't work and that we probably won't see any of these denials publicly other than the redacted copies of the denials when the process is complete? That really won't be helpful as I'm guessing many of these will have to be redacted so heavily that they won't have much information left once that is done.**

**Am I correct?**

*Lois G. Lerner*

Director of Exempt Organizations

**From:** Lerner Lois G
**Sent:** Friday, May 03, 2013 9:30 AM
**To:** Flax Nikole C
**Subject:** RE: Aba

It's just the plain vanilla "what's new from the IRS?" with Ruth and Janine---ordinarily, I'd give snippets of several topics--status of auto-rev, the 2 questionnaire projects, the interactive 1023--stuff we talked about at Georgetown. May 10, 9-10--immediately followed by me on a panel re C & U Report with Lorry Spitzer and someone else--maybe Suzie McDowell.

Lois G. Lerner
Director of Exempt Organizations

-----Original Message-----
From: Flax Nikole C
Sent: Friday, May 03, 2013 9:42 AM
To: Lerner Lois G
Subject: Aba

What time is your panel friday and what are the topics?

**From:** Flax Nikole C
**Sent:** Tuesday, April 23, 2013 11:59 AM
**To:** Lerner Lois G
**Subject:** FW: Draft remarks
**Attachments:** draft c4 comments 4-22-13.doc

see what you think.



Appendix 34

**Recent section 501(c)(4) activity**
**PRELIMINARY DRAFT 4-22-13**

So I think it's important to bring up a matter that came up over the last year or so concerning our determination letter process, some section 501(c)(4) organizations and their political activity. Some of this has been discussed publicly already. But I thought it would make sense to do just a couple of minutes on what we did, what we didn't do, and where we are today on the grouping of advocacy organizations in our determination letter inventory.

I will start with a summary. As you know, the number of c4 applications increased significantly starting after 2010. In particular, we saw a large increase in the volume of applications from organizations that appeared to be engaged or planning to engage in advocacy activities. At that time, we did not have good enough procedures or guidance in place to effectively work these cases. We also have the factual difficulty of separating politics from education in these cases – it's not always clear. Complicating matters is the sensitivity of these cases. Before I get into more detail, let me say that the IRS should have done a better job of handling the review of the c4 applications. We made mistakes, for which we apologize. But these mistakes were not due to any political or partisan reason. They were made because of missteps in our process and insufficient sensitivity to the implications of some our decisions. We believe we have fixed these issues, and our entire team will do a much better job going forward in this area. And I want to stress that our team - all career civil servants -- will continue to do their work in a fair, non-partisan manner.

So let me start again and provide more detail. Centralizing advocacy cases for review in the determination letter process made sense. Some of the ways we centralized did not make sense. But we have taken actions to fix the errors. What we did here, along with other mistakes that were made along the way, resulted in some cases being in inventory far longer than they should have.

Our front-line people in Cincinnati -- who do the reviews -- took steps to coordinate the handling of the uptick in cases to ensure consistency. We take this approach in areas where we want to promote consistency. Cases involving credit counseling are the best example of this sort of situation.

Here's where a problem occurred. In centralizing the cases in Cincinnati, my review team placed too much reliance on the particular name of an organization; in this case, relying on names in organization titles like "tea party" or "patriot," rather than looking deeper into the facts to determine the level of activity under the c4 guidelines. Our Inspector General is looking at this situation, but I believe and the IRS leadership team believe this to be an error -- not a political vendetta. The error was of a mistaken desire for too much efficiency on the applications without sufficient sensitivity to the situation.

We also made some errors in our development letters, asking for more than was needed. You may recall the publicity around donor lists. That resulted from insufficient

guidance being provided to our people working these cases. There was also an issue about whether we could do a guidesheet for these cases, an effort that took too long before we realized the diversity of the cases prevented success on such a document.

Now, we have remedied this situation -- both systemically for the IRS and for the taxpayers who were impacted. I think we have done a good job of turning the situation around to help prevent this from occurring again.

Let me walk you through the steps we have taken.

Systemically, decisions with respect to the centralized collection of cases must be made at a higher level. So what happened here will not happen again.

With respect to the specific c4 cases in inventory, we took a number of steps to move things along. First, we had a team review the cases to determine the necessary scope of our review. Now make no mistake, some need that review, some have or had endorsements in public materials, for example. But many did not.

We worked to move the inventory. We closed those cases that were clear and are working on those that are less certain.

With respect to what we agree may have been overbroad requests for information, we engaged in a process of an active back and forth with the taxpayer. With respect to donor names, we informed organizations that if they could provide information requested in an alternative manner, we would work with them. In cases in which the donor names were not used in making the determination, the donor information was expunged from the file.

We now have a process where each revenue agent assigned these cases works in coordination with a specific technical expert.

And we have made significant progress on these cases. Of the nearly 300 c4 advocacy cases, we have approved more than 120 to date. We have had more than 30 (?) withdrawals. And obviously some cases take longer than others depending on the issues raised, including the level of political activity compared with social welfare activity. Let me make another important point that shouldn't be lost in all of this. We remain committed to making sure that we properly review determinations where there are questions. We hope to wrap the remaining cases up relatively soon.

So I wanted to raise this situation today with you. You and I know the IRS does make mistakes. And I also think you agree that our track record shows that our decisions are based on the law – not political affiliation. When we do make mistakes, we need to acknowledge it and work toward a better result. We also need to put in place safeguards to ensure the errors do not happen again. I think we have tried to do that here.

These cases will help us, along with the self-declarer questionnaire, to better understand the state of play on political activities in today's environment, the gaps in

guidance, and where we need to head into the future.

**From:** Lerner Lois G
**Sent:** Wednesday, March 27, 2013 12:39 PM
**To:** Flax Nikole C; Sinno Suzanne; Barre Catherine M; Landes Scott S; Amato Amy; Vozne Jennifer L
**Subject:** RE: UPDATE - FW: Hearing

As I mentioned yesterday--there are several groups of folks from the FEC world that are pushing tax fraud prosecution for c4s who report they are not conducting political activity when they are(or these folks think they are). One is my ex-boss Larry Noble(former General Counsel at the FEC), who is now president of Americans for Campaign Reform. This is their latest push to shut these down. One IRS prosecution would make an impact and they wouldn't feel so comfortable doing the stuff.

So, don't be fooled about how this is being articulated--it is ALL about 501(c)(4) orgs and political activity

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Flax Nikole C
**Sent:** Wednesday, March 27, 2013 1:31 PM
**To:** Sinno Suzanne; Lerner Lois G; Barre Catherine M; Landes Scott S; Amato Amy; Vozne Jennifer L
**Subject:** RE: UPDATE - FW: Hearing

thanks - this is helpful. Can we regroup internally before we get back to the Hill?

So sounds like their interest in 7206 is not 501c4 specific?

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**From:** Sinno Suzanne
**Sent:** Wednesday, March 27, 2013 1:19 PM
**To:** Flax Nikole C; Lerner Lois G; Barre Catherine M; Landes Scott S; Amato Amy
**Subject:** UPDATE - FW: Hearing

I just spoke with Ayo. He told me that DOJ said the IRS does the initial investigations into violations of IRC section 7206 (fraud and false statements) and DOJ prosecutes IRS referrals. DOJ said they have not gotten any referrals from the IRS.

The Subcommittee is interested in an IRS witness to testify on:
- the process of an investigation before a case is turned over to DOJ
- how a determination is made
- how different elements of the offense are interpreted under IRC section 7206

Please let me know your thoughts.

Thanks.
Suzie

**From:** Sinno Suzanne
**Sent:** Wednesday, March 27, 2013 12:51 PM
**To:** Griffin, Ayo (Judiciary-Dem)
**Subject:** RE: Hearing

Ayo,

I do remember meeting with you on 501(c)(4)s last July and I hope you are well too.

Regarding the hearing, this is very short notice and I am not sure that we can properly prepare a witness in time and clear testimony. I will need to check with the subject matter experts and get back to you.

What would be most helpful is if you can tell me specifically what the Subcommittee wants the IRS to address, as we cannot comment on any specific cases/taxpayers. Are there questions that DOJ cannot answer that you want the IRS to answer instead?

Feel free to call me directly at [redacted] if you would like to discuss over the phone

Thank you,
Suzie

Suzanne R. Sinno, J.D., LL.M. (Tax)
Legislative Counsel
Office of Legislative Affairs
Internal Revenue Service
[redacted]
[redacted](fax)
[redacted]

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**From:** Griffin, Ayo (Judiciary-Dem) [redacted]
**Sent:** Tuesday, March 26, 2013 7:44 PM
**To:** Sinno Suzanne
**Subject:** Hearing

Hi Suzanne,

I hope you're well. You may recall we met last summer during a couple of very helpful IRS briefings that you put together for staff for several Senators relating to political spending by 501(c)(4) groups.

I wanted to get in touch because Sen. Whitehouse is convening a hearing in the Judiciary Subcommittee on Crime and Terrorism on criminal enforcement of campaign finance law on April 9, which I think you may have already have heard about from Bill Erb at DoJ. One of the topics actually involves enforcement of tax law. Specifically, Sen. Whitehouse is interested in the investigation and prosecution of material false statements to the IRS regarding political activity by 501(c)(4) groups on forms 990 and 1024 under 26 U.S.C. § 7206.

Sen. Whitehouse would like to invite an IRS witness to testify on these issues. Could you please let me know if it would be possible for you to provide a witness?

I sincerely apologize for the late notice. We had been hoping that a DoJ witness could discuss all of the topics that Sen. Whitehouse was interested in covering at this hearing, but we were recently informed that they would not be able to speak about enforcement of § 7206 in this context.

I have attached an official invitation in case you require one two weeks prior to the hearing date (as DoJ does).

Perhaps we can discuss all of this on the phone tomorrow if you have time.

Thanks very much,

Ayo

Ayo Griffin
Counsel
Subcommittee on Crime and Terrorism
Senator Sheldon Whitehouse, Chair
U.S. Senate Committee on the Judiciary
[redacted]

**From:** Lerner Lois G
**Sent:** Wednesday, October 17, 2012 9:28 AM
**To:** Lowe Justin; Zarin Roberta B; Paz Holly O; Partner Melaney J
**Subject:** RE: Politico Article on the IRS, Disclosure, and (c)(4)s

I never understand why they don't go after Congress to change the law!

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Lowe Justin
**Sent:** Wednesday, October 17, 2012 10:21 AM
**To:** Zarin Roberta B; Lerner Lois G; Paz Holly O; Partner Melaney J
**Subject:** Politico Article on the IRS, Disclosure, and (c)(4)s

A fairly critical article from Politico on Monday, touching on (c)(4)s, responses to information requests, and application processing: http://www.politico.com/news/stories/1012/82387.html

**From:** Lerner Lois G
**Sent:** Wednesday, July 25, 2012 7:47 PM
**To:** Miller Steven T
**Subject:** Re: thank you

Glad it turned out to be far more boring than it might have. Happy to be able to help.
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

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**From:** Miller Steven T
**Sent:** Wednesday, July 25, 2012 11:16 AM
**To:** Lowe Justin; Urban Joseph J; Mistr Christine R; Flax Nikole C; Barre Catherine M; Norton William G Jr; Richardson Virginia G; Daly Richard M; Lerner Lois G; Paz Holly O
**Subject:** thank you

**For all the help on**

**the hearing. Please thank others who were involved in what I know was a**

**time consuming effort to quench my thirst for details.**

**From:** Lerner Lois G
**Sent:** Tuesday, July 24, 2012 10:40 AM
**To:** Paz Holly O; Megosh Andy; Fish David L; Park Nalee; Williams Melinda G
**Cc:** Flax Nikole C
**Subject:** C4

I know you all have received messages independently, but I wanted all to hear same message at same time. Regardless whether language has previously been approved, NO responses related to c4 stuff go out without an affirmative message, in writing from Nikole. Thanks Lois G. Lerner---------- Sent from my BlackBerry Wireless Handheld

**From:** Lerner Lois G
**Sent:** Tuesday, July 24, 2012 10:36 AM
**To:** Flax Nikole C
**Subject:** Re: c4 letters

That is why I told them every letter had to go thru you. Don't know why this didn't, but have now told all involved, I hope! Sorry for all the noise. It is just stupid, but not welcome, I'm sure.
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

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**From:** Flax Nikole C
**Sent:** Tuesday, July 24, 2012 11:13 AM
**To:** Lerner Lois G
**Subject:** RE: c4 letters

I know it is the same language, but this one has created a ton of issues including from Treasury and timing not ideal.

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**From:** Lerner Lois G
**Sent:** Tuesday, July 24, 2012 11:07 AM
**To:** Flax Nikole C
**Subject:** Re: c4 letters

Sorry for that. I previously told the$m everything on c4 had to go to you first for approval.
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

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**From:** Flax Nikole C
**Sent:** Tuesday, July 24, 2012 10:08 AM
**To:** Lerner Lois G; Paz Holly O; Megosh Andy; Park Nalee; Urban Joseph J
**Subject:** c4 letters

We need to hold up on sending any more responses to any public/congressional letters until we all talk. Thanks

**From:** Kindell Judith E
**Sent:** Wednesday, July 18, 2012 10:54 AM
**To:** Lerner Lois G
**Cc:** Light Sharon P
**Subject:** Bucketed cases

Of the 84 (c)(3)

cases, slightly over half appear to be conservative leaning groups based solely

on the name. The remainder do not obviously lean to either side of the

political spectrum.

Of the 199 (c)(4)

cases, approximately 3/4 appear to be conservative leaning while fewer than 10

appear to be liberal/progressive leaning groups based solely on the name.

The remainder do not obviously lean to either side of the political

spectrum.

**From:** Lerner Lois G
**Sent:** Tuesday, July 10, 2012 9:31 AM
**To:** Light Sharon P
**Subject:** Re: this morning on NPR

Perhaps the FEC will save the day
Lois G. Lerner
Sent from my BlackBerry Wireless Handheld

**From:** Light Sharon P
**Sent:** Tuesday, July 10, 2012 08:44 AM
**To:** Paz Holly O; Lerner Lois G
**Subject:** this morning on NPR

Democrats Say Anonymous Donors Unfairly Influencing Senate Races

Karen Bleier /AFP/Getty Images

In Senate races, Democrats are fighting to preserve their thin majority. Their party campaign committee wants the Federal Election Commission to crack down on some of the Republicans' wealthiest allies — outside money groups that are using anonymous contributions to finance a multimillion-dollar onslaught of attack ads.

At the Democratic Senatorial Campaign Committee, Director Matt Canter says the pro-Republican groups aren't playing by the rules. The committee plans to file a complaint with the FEC accusing a trio of "social welfare" groups of actually being political committees, abusing the rules to hide the identities of their donors.

"These are organizations that are allowing right-wing billionaires and corporations to essentially get special treatment," says Canter.

Democrats don't have high-roller groups like these. Canter says that while ordinary donors in politics have to disclose their contributions, "these right-wing billionaires and corporations that are likely behind the ads that these organizations are running don't have to adhere to any of those laws."

The complaint cites Crossroads GPS, co-founded by Republican strategist Karl Rove; Americans For Prosperity, supported by the billionaire industrialists David and Charles Koch; and 60 Plus, which bills itself as the senior citizens' conservative alternative to AARP.

The three groups have all told the IRS they are social welfare organizations, just like thousands of local civic groups and definitely not political committees.

Canter said they've collectively spent about $22 million attacking Democrats in Senate races this cycle.

The Obama campaign filed a similar complaint against Crossroads GPS last month. Watchdog groups have also repeatedly complained to the FEC and IRS.

At Crossroads GPS, spokesman Jonathan Collegio said their ads talk about things like unemployment and government overspending. "Those are all issues and advertising that's protected by the First Amendment, and it would ... be de facto censorship for the government to stop that type of advocacy from taking place," says Collegio.

And on Fox News recently, Rove said the Crossroads organization is prepared to defend itself and its donors' anonymity.

"We have some of the best lawyers in the country, both on the tax side and on the political side, political election law, to make certain that we never get close to the line that would push us into making GPS a political group as opposed to a social welfare organization," says Rove.

But it's possible that the legal ground may be shifting slowly beneath the social welfare organizations.

They've been a political vehicle of choice for big donors who want to stay private, especially as the Supreme Court loosened the rules for unlimited money.

But last month, a federal appeals court in Richmond, Va., said the FEC has the power to tell a social welfare organization that it's advertising like a political committee and it has to play by those rules.

Campaign finance lawyer Larry Noble used to be the FEC's chief counsel. He says that court ruling won't put anyone out of business this year.

"But it will have a chilling effect on these groups of billionaire-raised contributions, because it will call into question whether or not they're really going to be able to keep their donors confidential," says Noble.

The first obstacle to that kind of enforcement is the FEC itself, a place where controversial issues routinely end in a partisan deadlock.

**From:** Lerner Lois G
**Sent:** Monday, June 25, 2012 5:00 PM
**To:** Daly Richard M; Ingram Sarah H; Marx Dawn R; Urban Joseph J; Marks Nancy J
**Cc:** Paz Holly O; Fish David L
**Subject:** RE: 201210022 Engagement Letter

It is what it is. Although the original story

isn't as pretty as we'd like, once we learned this were off track, we have done

what we can to change the process, better educate our staff and move the

cases. So, we will get dinged, but we took steps before the "dinging"

to make things better and we have written procedures. So, it is what

what it is.

*Lois G.*

*Lerner*

Director of Exempt Organizations

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**From:** Daly Richard M
**Sent:** Friday,

June 22, 2012 5:10 PM
**To:** Ingram Sarah H; Lerner Lois G; Marx Dawn R;

Urban Joseph J; Marks Nancy J
**Subject:** FW: 201210022 Engagement

Letter
**Importance:** High

TIGTA is going to look at how we deal with the

applications from (c)(4)s. Among other things they will look at our

consistency, and whether we had a reasonable basis for asking for information

from the applicants. The engagement letter bears a close

reading. To my mind, it has a more skeptical tone than

usual.

Among the documents they want to look at are the

following:

- All

documents and correspondence (including e-mail) concerning the Exempt

Organizations function's response to and decision-making process for addressing

the increase in applications for tax-exempt status from organizations involving

potential political advocacy issues.

TIGTA expects to issue its report in the spring.

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**From:** Rutstein Joel S
**Sent:** Friday,

June 22, 2012 3:01 PM
**To:** Daly Richard M
**Subject:** FW:

201210022 Engagement Letter
**Importance:** High

Mike, please see below and attached. Given that

TIGTA sent this to Joseph Grant and cc'ed Lois and Moises, do you still need me

to circulate this under a cover memo and distribute it to all my liaisons

including you? Thanks, Joel

*Joel S. Rutstein, Esq.*

Program Manager,

GAO/TIGTA Audits

Legislation and

Reports Branch

Office of

Legislative Affairs

[redacted]

(fax)

Email: [redacted]

Web: http://irweb.irs.gov/AboutIRS/bu/cl/la/laqt/default.aspx

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**From:** Price Emma W TIGTA

[redacted]
**Sent:** Friday, June 22, 2012 2:56

PM
**To:** Grant Joseph H
**Cc:** Davis Jonathan M (Wash DC); Miller

Steven T; Medina Moises C; Lerner Lois G; Rutstein Joel S; Holmgren R David

TIGTA; Denton Murray B TIGTA; Coleman Amy L TIGTA; McKenney Michael E TIGTA;

Stephens Dorothy A TIGTA
**Subject:** 201210022 Engagement

Letter
**Importance:** High

FYI – Engagement Letter – *Consistency in Identifying and*

*Reviewing Applications for Tax-Exempt Status Involving Political Advocacy*

*Issues.*

Thanks,

Emma Price

**From:** Lerner Lois G
**Sent:** Wednesday, June 13, 2012 12:48 PM
**To:** Downing Nanette M
**Subject:** FW: Mother Jones on (c)(4)s

6103

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Zarin Roberta B
**Sent:** Wednesday, June 13, 2012 8:34 AM
**To:** Lerner Lois G; Urban Joseph J; Kindell Judith E; Medina Moises C; Grant Joseph H; Ingram Sarah H; Partner Melaney J; Paz Holly O; Fish David L; Marks Nancy J
**Cc:** Marx Dawn R
**Subject:** FW: Mother Jones on (c)(4)s

very interesting reading.

Bobby Zarin, Director
Communications and Liaison
Tax Exempt and Government Entities

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**From:** Burke Anthony
**Sent:** Wednesday, June 13, 2012 7:35 AM
**To:** Zarin Roberta B
**Cc:** Lemons Terry L
**Subject:** Mother Jones on (c)(4)s

I don't think we'll include this in the clips, but I thought you might be interested:

**Mother Jones**

**How Dark-Money Groups Sneak By the Taxman**

**Gavin Aronsen**

**June 13, 2012**

Here at Mother Jones we talk about "dark money" to broadly describe the flood of unlimited spending behind this year's election. But the truly dark money in 2012 is being raised and spent by tax-exempt groups that aren't required to disclose their financial backers even as they funnel anonymous cash to super-PACs and run election ads.

By Internal Revenue Service rules, these 501(c)(4)s exist as nonpartisan "social welfare" organizations. They can engage in political activity so long as that's not their primary purpose, but skirt that rule by running issue-based "electioneering communications" that can mention candidates so long as they don't directly tell you to vote for or against them (wink, wink), or by giving grants to other politically active 501(c)(4)s. (Super-PACs, on the other hand, can spend all their money endorsing or attacking candidates, but must disclose their donors.)

Some overtly partisan dark-money groups are better at dancing around these rules than others. Last month, the IRS stripped an organization called Emerge America of its 501(c)(4) status. As it informed the group, which explicitly works to elect Democratic women, "You are not operated primarily to promote social welfare because your activities are conducted primarily for the benefit of a political party and a private group of individuals, rather than the community as a whole." Sure enough, Emerge America's mission statement on its 2010 tax form made no attempt to hide this fact: "By providing women across America with a top-notch training and a powerful, political network, we are getting more Democrats into office and changing the leadership-and politics-of America." D'oh!

Emerge America certainly isn't the only 501(c)(4) to walk the line between promoting social welfare and promoting a political party. It just wasn't savvy or subtle enough to not get busted. Other dark-money groups tend to describe their missions in broad terms that are unlikely to raise an auditor's eyebrows. But how they spend their money suggests their actual agendas. A few examples:

American Action Network

What it is: Conservative dark-money group cofounded by former Sen. Norm Coleman (R-Minn.).

Mission statement (as stated on tax forms): "The American Action Network is a 501(c)(4) 'action tank' that will create, encourage, and promote center-right policies based on the principles of freedom, limited government, American exceptionalism, and strong national policy."

How it walks the line: AAN spent $20 million in the 2010 election cycle targeting Democrats, including producing ads that were pulled from local airwaves for making "unsubstantiated" claims, but $15 million of that went toward issue ads. Last week, Citizens for Responsibility and Ethics in Washington claimed that from July 2009 through June 2011 AAN spent 66.8 percent of its budget on political activity, an apparent violation of its tax-exempt status. CREW is calling for an investigation, suggesting that "significant financial penalties might prod AAN to learn the math."

Crossroads GPS

What it is: The 501(c)(4) of Karl Rove's American Crossroads super-PAC

Mission statement: "Crossroads Grassroots Policy Strategies is a non-profit public policy advocacy organization that is dedicated to educating, equipping, and engaging American citizens to take action on important economic and legislative issues that will shape our nation's future. The vision of Crossroads GPS is to empower private citizens to determine the direction of government policymaking rather than being the disenfranchised victims of it. Through issue research, public communications, events with policymakers, and outreach to interested citizens, Crossroads GPS seeks to elevate understanding of consequential national policy issues, and to build grassroots support for legislative and policy changes that promote private sector economic growth, reduce needless government regulations, impose stronger financial discipline and accountability on government, and strengthen America's national security."

How it walks the line: The campaign-finance reform group Democracy 21 has called Crossroad GPS' tax-exempt status a "farce," pointing to $10 million anonymously donated to finance GPS' anti-Obama ads. Likewise, the Campaign Legal Center wants the IRS to audit GPS. According to its tax filings, between June 2010 and December 2011 GPS spent $17.1 million on "direct political spending"-just 15 percent of its total spending. Yet it also spent another 42 percent of its total spending, or $27.1 million, on "grassroots issue advocacy," which included issue ads.

Americans for Prosperity

What it is: Dark-money group of the Americans for Prosperity Foundation (which was founded by David Koch).

Mission statement: "Educate U.S. citizens about the impact of sound economic policy on the nation's economy and social structure, and mobilize citizens to be involved in fiscal matters."

How it walks the line: Since 2010, Americans for Prosperity has officially spent about $1.4 million on election ads. However, the group's 2010 tax filing shows that $11.2 million of its $24 million in expenses went toward "communications, ads, [and] media." In May, an anonymous donor gave AFP $6.1 million to spend on an issue ad attacking the president's energy policy. Just before Wisconsin's recent recall election, AFP sponsored a bus tour to rally conservative voters. But its state director said the tour had nothing to do the recall: "We're not dealing with any candidates, political parties, or ongoing races. We're just educating folks on the importance of [Gov. Scott Walker's] reforms."

FreedomWorks

What it is: Dark-money arm of former House Majority Leader Dick Armey's Tea Party-aligned super-PAC of the same name

Mission statement: "Public policy, advocacy, and educational organization that focuses on fiscal on economic issues."

How it walks the line: FreedomWorks' 501(c)(4) hasn't spent any money on electioneering this election, but it has funneled $1.7 million into its super-PAC, which has spent $2.4 million supporting Republican campaigns. FreedomWorks has focused its past efforts on organizing anti-Obama Tea Party protests and encouraging conservatives to disrupt Democratic town hall meetings to protest the party's health care and renewable energy policies.

Citizens United

What it is: Conservative nonprofit that sued the Federal Election Commission in 2008, resulting in the Supreme Court's infamous Citizens United ruling.

Mission statement: "Citizens United is dedicated to restoring our government to citizens [sic] control. Through a combination of education, advocacy, and grass roots organization, the organization seeks to reassert the traditional American values of limited government, freedom of enterprises, strong families, and national sovereignty and security. The organization's goal is to restore the founding fathers [sic] vision of a free nation, guided by honesty, common sense, and goodwill of its citizens."

How it walks the line: Since its formation in 1988, the nonprofit has released 19 right-wing political documentaries, including films narrated by Newt Gingrich and Mike Huckabee, a rebuttal to Michael Moore's Fahrenheit 9/11, and a pro-Ronald Reagan production (plus the upcoming Occupy Unmasked). On its 2010 tax filing, Citizens United reported spending more than half of its $15.2 million budget on "publications and film" and "advertising and promotion."

**From:** Seto Michael C
**Sent:** Wednesday, February 02, 2011 12:39 PM
**To:** Lieber Theodore R; Salins Mary J; Seto Michael C; Shoemaker Ronald J; Smith Danny D
**Subject:** FW: SCR Table for Jan. 2011 & SCR items
**Attachments:** SCR table Jan 2011.doc; SCR Jan 2011 [redacted] MD.doc; SCR Jan 2011 [redacted] MD.doc; SCR Jan 2011 [redacted] MD.doc; SCR Jan 2011 [redacted].doc; SCR Jan 2011 [redacted] MD.doc; SCR Jan 2011 Newspaper Cases Update MD.DOC; SCR Jan 2011 [redacted] MD.DOC; SCR Jan 2011 Medical Marijuana.doc; SCR Jan 2011 Mortgage Foreclosure.doc; SCR Jan 2011 Foreign Lobby Cases.doc; SCR Jan 2011 [redacted] [redacted].doc; SCR Jan 2011 [redacted].doc

Below is Lois' and Holly's directions on certain technical areas, such as newspapers, health care case, etc. Please do not allow any cases to go out before we have brief Lois and Holly.

Attached is the SCR table and the SCRs. The SCRs that went to Mike Daly ends with "MD." I will forward the other SCRs that didn't went Mike as fyi.

These reports are for your eyes only . . . not to be distributed.

Thanks,

Mike

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**From:** Lerner Lois G
**Sent:** Wednesday, February 02, 2011 11:17 AM
**To:** Paz Holly O; Seto Michael C
**Cc:** Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E; Light Sharon P
**Subject:** RE: SCR Table for Jan. 2011

Thanks--even if we go with a 4 on the Tea Party cases, they may want to argue they should be 3s, so it would be great if we can get there without saying the only reason they don't get a 3 is political activity.

I'll get with Nan Marks on the [redacted] piece.

I'm just antsy on the churchy stuff--Judy--thoughts on whether we should go to Counsel early on this--seems to me we may want to answer all questions they may have earlier rather than later, but I may be being too touchy. I'll defer to you and Judy.

[redacted]--I thought the elevated to TEGE Commish related to whether we ever had--that's why I asked. Perhaps the block is wrong--maybe what we need is some notation that the issue is one we would elevate?

I hear you about you and Mike keeping track, but I would like a running history. that's the only way I can speak to what we're doing and progress in a larger way. Plus we've learned from Exam--if they know I'm looking, they don't want to have to explain--so they

move things along. the 'clean" sheet doesn't give me any sense unless I go back to previous SCRs.

I've added Sharon so she can see what kinds of things I'm interested in.

*Lois G. Lerner*
Director, Exempt Organizations

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**From:** Paz Holly O
**Sent:** Wednesday, February 02, 2011 11:02 AM
**To:** Lerner Lois G; Seto Michael C
**Cc:** Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
**Subject:** RE: SCR Table for Jan. 2011

Tea Party - Cases in Determs are being supervised by Chip Hull at each step - he reviews info from TPs, correspondence to TPs, etc. No decisions are going out of Cincy until we go all the way through the process with the c3 and c4 cases here. I believe the c4 will be ready to go over to Judy soon.

HMO case ([redacted]) - When you say to push for the next Counsel meeting, with whom in Counsel are you referring? The plan had been for Sarah to meet with Wilkins and Nan on this. We think this has not happened but have not heard directly (unless Sarah has responded to your recent email on this case). I don't know that we at this level can drive that meeting.

[redacted]-I will reach out to Phil to see if Nan has seen it. She was involved in the past but I don't know about recently.

On [redacted] (religious order), proposed denials typically do not go to Counsel. Proposed denial goes out, we have conference, then final adverse goes to Counsel before that goes out. We can alter that in this case and brief you after we have Counsel's thoughts.

[redacted] was not elevated at Mike Daly's direction. He had us elevate it twice after the litigation commenced but said not to continue after that unless we are changing course on the application front and going forward with processing it.

[redacted] - Our general criteria as to whether or not to elevate an SCR to Sarah/Joseph and on up is to only elevate when there has been action. [redacted] was elevated this month because it was just received. We will now begin to review the 1023 but won't have anything to report for sometime. We will elevate again once we have staked out a position and are seeking executive concurrence.

We (Mike and I) keep track of whether estimated completion dates are being moved by means of a track changes version of the spread sheet. When next steps are not reflected as met by the estimated time, we follow up with the appropriate managers or Counsel to determine the cause for the delay and agree on a due date.

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**From:** Lerner Lois G
**Sent:** Tuesday, February 01, 2011 6:28 PM
**To:** Seto Michael C
**Cc:** Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
**Subject:** RE: SCR Table for Jan. 2011

Thanks--a couple comments

1. Tea Party Matter very dangerous. This could be the vehicle to go to court on the issue of whether Citizen's United overturning the ban on corporate spending applies to tax exempt rules. Counsel and Judy Kindell need to be in on this one please needs to be in this. Cincy should probably NOT have these cases--Holly please see what exactly they have please.

2. We need to push for the next Counsel meeting re: the HMO case Justin has. Reach out and see if we can set it up.

3. [redacted]--has that gone to Nan Marks? It says Counsel, but we'll need her on board. In all cases where it says Counsel, I need to know at what level please.

4. I assume the proposed denial of the religious or will go to Counsel before it goes out and I will be briefed?

5. I think no should be yes on the elevated to TEGE Commissioner slot for the Jon Waddel case that's in litigation--she is well aware.

6. Case involving healthcare reconciliation Act needs to be briefed up to my level please.
7. SAME WITH THE NEWSPAPER CASES--NO GOING OUT WITHOUT BRIEFING UP PLEASE.

8. The 3 cases involving [redacted] should be briefed up also.

9. [redacted] case--why "yes-for this month only" in TEGE Commissioner block?

Also, please make sure estimated due dates and next step dates are after the date you send these. On a couple of these I can't tell whether stuff happened recently or not.

Question--if you have an estimated due date and the person doesn't make it, how is that reflected? My concern is that when Exam first did these, they just changed the date so we always looked current, rather than providing a history of what occurred. perhaps it would help to sit down with me and Sue Lehman--she helped develop the report they now use.

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**From:** Seto Michael C
**Sent:** Tuesday, February 01, 2011 5:33 PM
**To:** Lerner Lois G
**Cc:** Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L
**Subject:** SCR Table for Jan. 2011

Here is the Jan. SCR summary.

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Flax Nikole C
**Sent:** Tuesday, February 28, 2012 3:26 PM
**To:** Lerner Lois G
**Subject:** RE: 501c4 response for AP

please hold off. Steve had some suggestions on that. I am in a meeting, but can get back to you soon.

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**From:** Lerner Lois G
**Sent:** Tuesday, February 28, 2012 3:04 PM
**To:** Flax Nikole C; Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L
**Cc:** Burke Anthony; Patterson Dean J
**Subject:** RE: 501c4 response for AP

**Thanks--I want to use it to respond to the Congressional/TAS inquiry so I will-**

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Flax Nikole C
**Sent:** Tuesday, February 28, 2012 3:01 PM
**To:** Eldridge Michelle L; Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Keith Frank; Lemons Terry L
**Cc:** Burke Anthony; Patterson Dean J
**Subject:** RE: 501c4 response for AP

The change is fine, but I don't think we need to update the response just for the one addition. Just include it next time we use it.

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**From:** Eldridge Michelle L
**Sent:** Tuesday, February 28, 2012 1:22 PM
**To:** Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L
**Cc:** Burke Anthony; Patterson Dean J
**Subject:** RE: 501c4 response for AP

Yes--I think that is better. Works for us if it works for you. Thanks --Michelle

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**From:** Lerner Lois G
**Sent:** Tuesday, February 28, 2012 12:29 PM
**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L
**Cc:** Burke Anthony; Patterson Dean J
**Subject:** RE: 501c4 response for AP

**I think the point Steve was trying to make is--it doesn't harm you that we take a long time. You don't get that unless you add the red language.. I don't think the rest of the paragraph does go to this. Is says you can hold yourself out if you meet all the requirements. If you aren't sure you do meet them, you may want the IRS letter. would you be more comfortable if we say:**

**While the application is pending, the organization must file a Form 990, like any other tax-exempt organization, and is otherwise able to operate.**

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Eldridge Michelle L
**Sent:** Tuesday, February 28, 2012 12:23 PM
**To:** Lerner Lois G; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L
**Cc:** Burke Anthony; Patterson Dean J
**Subject:** RE: 501c4 response for AP

Any chance that we can delete the language at the end -- and just say: While the application is pending, the organization must file a Form 990, like any other tax-exempt organization. I am concerned that the phrase "operate without material barrier" is a bit challenging for a statement. Given the context of the rest of the paragraph, I think the message gets across without it.

**While the application is pending, the organization must file a Form 990, like any other tax-exempt organization, and is otherwise able to operate without material barrier.**

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**From:** Lerner Lois G
**Sent:** Tuesday, February 28, 2012 12:02 PM
**To:** Eldridge Michelle L; Miller Steven T; Lemons Terry L; Davis Jonathan M (Wash DC); Flax Nikole C; Keith Frank; Lemons Terry L
**Subject:** FW: 501c4 response for AP
**Importance:** High

**Let me know if the addition (in bold red) does what you want. I'd like to share this with doc. on a Congressional coming in through TAS.**

*Lois G. Lerner*
Director of Exempt Organizations

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**From:** Eldridge Michelle L
**Sent:** Monday, February 27, 2012 06:17 PM
**To:** Miller Steven T; Davis Jonathan M (Wash DC); Lerner Lois G; Grant Joseph H; Flax Nikole C; Keith Frank; Lemons Terry L; Zarin Roberta B

**Subject:** FW: 501c4 response for AP

OK--Here is final I'm using. Edits were incorporated. Thanks. --Michelle

By law, the IRS cannot discuss any specific taxpayer situation or case. Generally however, when determining whether an organization is eligible for tax-exempt status, including 501(c)(4) social welfare organizations, all the facts and circumstances of that specific organization must be considered to determine whether it is eligible for tax-exempt status. To be tax-exempt as a social welfare organization described in Internal Revenue Code (IRC) section 501(c)(4), an organization must be primarily engaged in the promotion of social welfare.

The promotion of social welfare does not include any unrelated business activities or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, the law allows a section 501(c)(4) social welfare organization to engage in some political activities and some business activities, so long as, in the aggregate, these non-exempt activities are not its primary activities. Even where the non-exempt activities are not the primary activities, they may be taxed. Unrelated business income may be subject to tax under section 511-514, and expenditures for political activities may be subject to tax under section 527(f). For further information regarding political campaign intervention by section 501 (c) organizations, see Election Year Issues, Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations, and Revenue Ruling 2004-6.

Unlike 501(c)(3) organizations, 501(c)(4) organizations are not required to apply to the IRS for recognition of their tax-exempt status. Organizations may self-declare and if they meet the statutory and regulatory requirements they will be treated as tax-exempt. If they do want reliance on an IRS determination of their status, they can file an application for exemption. **While the application is pending, the organization must file a Form 990, like any other tax-exempt organization, and is otherwise able to operate without material barrier.**

In cases where an application for exemption under 501 (c)(4) present issues that require further development before a determination can be made, the IRS engages in a back and forth dialogue with the applicant. For example, if an application appears to indicate that the organization has engaged in political activities or may engage in political activities, the IRS will request additional information about those activities to determine whether they, in fact, constitute political activity. If so, the IRS will look at the rest of the organization's activities to determine whether the primary activities are social welfare activities or whether they are non-exempt activities. In order to make this determination, the IRS must build an administrative record of the case. That record could include answers to questions, copies of documents, copies of web pages and any other relevant information.

Career civil servants make all decisions on exemption applications in a fair, impartial manner and do so without regard to political party affiliation or ideology.

**From:** Cook Janine
**Sent:** Tuesday, July 19, 2011 3:06 PM
**To:** Spellmann Don R
**Cc:** Griffin Kenneth M
**Subject:** RE: Advocacy orgs

**Categories:** NUUU

**T hanks Don. Can you get updates on these 2 cases just so we know where we are on them before we meet with Lois and Holly? Thanks**

---

**From:** Spellmann Don R
**Sent:** Tuesday, July 19, 2011 4:05 PM
**To:** Cook Janine
**Subject:** RE: Advocacy orgs

I believe Amy (with Ken and David) have the 2 cases. [redacted] 6103 and [redacted] 6103.

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**From:** Cook Janine
**Sent:** Tuesday, July 19, 2011 3:53 PM
**To:** Paz Holly O
**Cc:** Marks Nancy J; Spellmann Don R
**Subject:** RE: Advocacy orgs

Thanks Holly. Do you know who in counsel has the one (c)(4) below? (Or if you give me TP name, I'll check on our end).

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**From:** Paz Holly O [redacted]
**Sent:** Tuesday, July 19, 2011 10:25 AM
**To:** Cook Janine
**Cc:** Marks Nancy J
**Subject:** RE: Advocacy orgs

Below is some background on what we are seeing:

## Background:

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved.

· Two sample cases were transferred to EOT, a (c)(3) and a (c)(4).
· The (c)(4) stated it will conduct advocacy and political intervention, but political intervention will be 20% or less of activities. A proposed favorable letter has been sent to Counsel for review.

1 The (c)(3) stated it will conduct "insubstantial" political intervention and it has ties to politically active (c)(4)s and 527s. A proposed denial is being revised by TLS to incorporate the org.'s response to the most recent development letter.

Lois would like to discuss our planned approach for dealing with these cases. We suspect we will have to approve the majority of the c4 applications. Given the volume of applications and the fact that this is not a new issue (just an increase in frequency of the issue), we plan to EO Determinations work the cases. However, we plan to have EO Technical compose some informal guidance re: development of these cases (e.g., review websites, check to see whether org is registered with FEC, get representations re: the amount of political activity, etc.). EO Technical will also designate point people for Determs to consult with questions. We will also refer these organizations to the Review of operations for follow-up in a later year.

**From:** Cook Janine [redacted]
**Sent:** Monday, July 18, 2011 3:08 PM
**To:** Paz Holly O
**Subject:** Advocacy orgs

Holly,

Do you have any additional background for meeting next week with Lois and Nan about increase in exemption requests from advocacy orgs? Thanks!

Janine

**From:** Lerner Lois G
**Sent:** Wednesday, February 03, 2010 11:25 AM
**To:** [redacted]@fec.gov'
**Cc:** Fish David L
**Subject:** Your request

Per your request, we have checked our records and there are no additional filings at this time. [redacted] 6103 [redacted] Hope that helps.

*Lois G. Lerner*
Director, Exempt Organizations

**From:** Thomas Cindy M
**Sent:** Monday, April 05, 2010 12:26 PM
**To:** Muthert Gary A
**Cc:** Shafer John H; Camarillo Sharon L; Shoemaker Ronald J; Grodnitzky Steven
**Subject:** Tea Party Cases -- ACTION
**Importance:** High

Gary,

Since you are acting for John and I believe the tea party cases are being held in your group, would you be able to gather information, as requested in the email below, and provide it to Ron Shoemaker so that EO Technical can prepare a Sensitive Case Report for these cases? Thanks in advance.

---

**From:** Grodnitzky Steven
**Sent:** Monday, April 05, 2010 12:14 PM
**To:** Thomas Cindy M
**Cc:** Shoemaker Ronald J; Shafer John H
**Subject:** RE: two cases

Cindy,

Information would be the number of cases and the code sections in which they filed under. Also, if there is anything that makes one stand out over the other, like a high profile Board member, etc.., then that would be helpful. Really thinking about possible media attention on a particular case. Just want to make sure that Lois and Rob are aware that there are other cases out there, etc.....

I think once the cases are assigned here in EOT and we have drafted a development letter, we should coordinate with you guys so that you can at least start developing them. However, we would still need to let Rob know before we resolve any of these cases as this is a potential high media area and we are including them on an SCR.

Ron-- once you assign the cases and we have drafted a development letter, please let me know so that we can coordinate with Cindy's folks.

Thanks.

Steve

---

**From:** Thomas Cindy M
**Sent:** Monday, April 05, 2010 11:59 AM
**To:** Grodnitzky Steven
**Cc:** Shoemaker Ronald J; Shafer John H
**Subject:** RE: two cases

What information would you like? We are "holding" the cases pending guidance from EO Technical because Holly Paz didn't want all of the cases sent to D.C.

---

**From:** Grodnitzky Steven
**Sent:** Monday, April 05, 2010 11:56 AM
**To:** Shoemaker Ronald J; Thomas Cindy M
**Subject:** RE: two cases

Thanks. Can you assign the cases to one person and start an SCR for this month on the cases? Also, need to coordinate with Cincy as they have a number of Tea Party cases as well.

Cindy -- Could someone provide information on the Tea Party cases in Cincy to Ron so that he can include in the SCR each month? Thanks.

---

**From:** Shoemaker Ronald J
**Sent:** Monday, April 05, 2010 11:30 AM
**To:** Elliot-Moore Donna; Grodnitzky Steven
**Subject:** RE: two cases

One is a c4 and one is a c3.

---

**From:** Elliot-Moore Donna
**Sent:** Friday, April 02, 2010 8:38 AM
**To:** Grodnitzky Steven; Shoemaker Ronald J
**Subject:** RE: two cases

The Tea Party movement is covered in the Post almost daily. I expect to see more applications.

---

**From:** Grodnitzky Steven
**Sent:** Thursday, April 01, 2010 4:04 PM
**To:** Elliot-Moore Donna; Shoemaker Ronald J
**Subject:** RE: two cases

These are high profile cases as they deal with the Tea Party so there may be media attention. May need to do an SCR on them.

---

**From:** Elliot-Moore Donna
**Sent:** Thursday, April 01, 2010 7:43 AM
**To:** Grodnitzky Steven; Shoemaker Ronald J
**Subject:** RE: two cases

I looked briefly and it looks more educational but with a republican slant obviously. Since they're applying under (c)(4) they may qualify.

---

**From:** Grodnitzky Steven
**Sent:** Wednesday, March 31, 2010 5:30 PM
**To:** Elliot-Moore Donna; Shoemaker Ronald J
**Subject:** RE: two cases

Thanks. Just want to be clear -- what are the specific activities of these organizations? Are they engaging in political activities, education, or what?

Ron -- can you let me know who is getting these cases?

---

**From:** Elliot-Moore Donna
**Sent:** Wednesday, March 31, 2010 10:30 AM
**To:** Grodnitzky Steven
**Subject:** two cases

Steve:

**From:** Thomas Cindy M
**Sent:** Friday, May 10, 2013 12:59 PM
**To:** Lerner Lois G
**Cc:** Paz Holly O
**Subject:** Low-Level Workers thrown under the Bus

As you can imagine, employees and managers in EO Determinations are furious. I've been receiving comments about the use of your words from all parts of TEGE and from IRS employees outside of TEGE (as far away as Seattle, WA).

I wasn't at the conference and obviously don't know what was stated and what wasn't. I realize that sometimes words are taken out of context. However, based on what is in print in the articles, it appears as though all the blame is being placed on Cincinnati. Joseph Grant and others who came to Cincinnati last year specially told the **low-level workers** in Cincinnati that no one would be "thrown under the bus." Based on the articles, Cincinnati wasn't publicly "thrown under the bus" instead was hit by a convoy of mack trucks.

Was it also communicated at that conference in Washington that the **low-level workers** in Cincinnati asked the Washington Office for assistance and the Washington Office took no action to provide guidance to the **low-level workers?**

One of the **low-level workers** in Cincinnati received a voice mail message this morning from the POA for one of his advocacy cases asking if the status would be changing per "Lois Lerner's comments." What would you like for us to tell the POA?

How am I supposed to keep the **low-level workers** motivated when the public believes they are nothing more than **low-level** and now will have no respect for how they are working cases? The attitude/morale of employees is the lowest it has ever been. We have employees leaving for the day and making comments to managers that "this low-level worker is leaving for the day." Other employees are making sarcastic comments about not being thrown under the bus. And still other employees are upset about how their family and friends are going to react to these comments and how it portrays the quality of their work.

The past year and a half has been miserable enough because of all of the auto revocation issues and the lack of insight from Executives to see a need for strategic planning that included having anyone from EO Determinations involved in the upfront planning of this work. Now, our leader is publicly referring to employees who are the ones producing all of this work with fewer resources than ever as **low-level workers!**

If reference to **low-level workers** wasn't made and/or blame wasn't placed on Cincinnati, please let me know ASAP and indicate what exactly was stated so that I can communicate that message to employees.

http://www.washingtonpost.com/business/irs-apologizes-for-inappropriately-targeting-conservative-political-groups-in-2012-election/2013/05/10/5afef7b8-b980-11e2-b568-b912f6ac6d9d_story.html?wpisrc=al_combo|CNE_p

http://www.usatoday.com/story/news/politics/2013/05/10/irs-apology-conservative-groups-2012-election/2149939/

http://www.wlwt.com/news/local-news/cincinnati/irs-cincinnati-workers-singled-out-conservative-groups-for-review/-/13549970/20986270/-/xrujaez/-/index.html

**From:** Lerner Lois G
**Sent:** Monday, January 28, 2013 10:06 AM
**To:** Klein Richard T
**Subject:** RE: personnel info

OK--questions already. I see at the bottom what my CSRS repayment amount would be should I decide to repay. It looks like the calculation at the tops assumes I am repaying--is that correct? Can I see what the numbers look like if I decide not to repay? Also, how do I go about repaying, if I choose to? Where would I find that information? Would you mind running a calculation for a retirement date of October 1, 2013? Also, the definition of monthly social security offset seems to say that at age 62(which I am) my monthly annuity will be offset by social security even if I don't apply. First--what the heck does that mean? Second, I don't see an offset on the chart--please explain. Thank you.

*Lois G. Lerner*
Director of Exempt Organizations

---

**From:** Klein Richard T
**Sent:** Monday, January 28, 2013 6:23 AM
**To:** Lerner Lois G
**Subject:** personnel info
**Importance:** Low

Here are your reports you requested.....set your sick leave at 1360 for the first report and bumped it up to 1700 for the second.....redeposit amount and hi three used are shown on the bottom right.....call or email if you need any thing else please.

*This e-mail and any attachments contain information intended solely for the use of the named recipient(s). This e-mail may contain privileged communications not suitable for forwarding to others. If you believe you have received this e-mail in error, please notify me immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments*

Richard T. Klein
Benefits Specialist
[redacted]

TOD 6:30 am to 3:15 EST

Address:
IRS Cincinnati BeST
[redacted]
Cincinnati, OH 45202

**From:** Cook Janine
**Sent:** Monday, October 10, 2011 2:58 PM
**To:** Judson Victoria (Vicki)
**Subject:** Letter illustrating 501(c)(4) issue and elections

Vicki, you have probably heard of this very hot button issue floating around.
I Wanted to share the recent letter to Commissioner and Lois, copied below. I haven't gotten it formally.

The only things pending here with us in counsel is being on standby to assist EO as they work through background of c4s and gift tax issue and general exempt status AND helping them come up with uniform questions/guidance for the determinations function in processing the uptick in c4 and c3 applications tied to election season.

Joe Urban in EO is key technician on these issues and I just checked in with him for updates and will let you know if any interesting developments
Sent by my Blackberry

---

**From:** paul streckfus [redacted]
**To:** paul streckfus [redacted]
**Sent:** Mon Oct 03 04:32:00 2011
**Subject:** EO Tax Journal 2011-163

*From the Desk of Paul Streckfus,*
*Editor, EO Tax Journal*

**Email Update 2011-163 (Monday, October 3, 2011)**
Copyright 2011 Paul Streckfus

**1 - IRS Phone Numbers**

Please toss last Thursday's list of IRS phone numbers for the enclosed list. A number of the Office of Chief Counsel phone numbers were incorrect, as that office has combined its two former EO branches into one. Now they all have the same phone number, so you can't possible dial the wrong number!

**2 - Section 501(c)(4) Status of Groups Questioned**

Will the persistence of Democracy 21 and the Campaign Legal Center pay off? (See their latest letter, reprinted *infra*.) Will the IRS even look at these suspect 501(c)(4) organizations? Did the regulations make a grievous error in redefining "exclusively" to mean "primarily"? (My answers: probably not, probably not, yes)

Rick Cohen, in *The Nonprofit Quarterly Newswire*, asks: "Do you think that Karl Rove is operating his organization Crossroads GPS 'primarily to further the common good and general welfare' rather than as a way to collect and spend money to help elect his favorite politicians? Do you believe that Bill Burton and the other former Obama aides who created Priorities USA are engaged only secondarily in political activities while its primary program is devoted to 'civic betterment and social improvements?' If so, are you up for buying a bridge that spans the East River in New York City between Brooklyn and Manhattan? ... Why are these organizations choosing to organize as 501(c)(4)s instead of as political organizations under section 527? The most likely explanation is because 527s have to disclose their donors, while 'social welfare' 501(c)(4)s, like 501(c)(3) public charities, can keep the sources of their money secret.... Do you think that Rove's Crossroads GPS has some sort of hidden social welfare purpose beyond what every sentient person knows is its first and foremost purpose: to elect candidates that Rove supports (and to oppose candidates Rove opposes)? The same goes for Burton's Priorities USA. The [Democracy 21] letter to the IRS isn't news. What is news is why the IRS and the Federal Elections Commission haven't been more diligent about going after these (c)(4)s that camouflage their intensely political activity behind some inchoate definition of 'social welfare.' The skilled nonprofit lawyers for these (c)(4)s will surely gin up some folderol about their social welfare activities. They'll say that they don't specifically endorse candidates. They'll work in some arcane calculation to show that their political activities are 'insubstantial' (defined as comprising no more than 49 percent of their activities).

# Testimony of Michael Seto
## Manager of EO Technical Unit
## July 11, 2013

A. She sent me email saying that when these cases need to go through multi-tier review and they will eventually have to go to Miss Kindell and the chief counsel's office.

Q. Miss Lerner told you this in an email?

A. That's my recollection.

# Testimony of Carter Hull
## Tax Law Specialist in EO Technical Unit
## June 14, 2013

Q. Have you ever sent a case to Ms. Kindell before?

A. Not to my knowledge.

Q. This is the only case you remember?

A. Uh-huh.

Q. Correct?

A. This is the only case I remember sending directly to Judy.

Q. And did you send her the whole case file as well?

A. Yes.

***

Q. Did Ms. Kindell indicate to you whether she agreed with your recommendations?

A. She did not say whether she agreed or not. She said it should go to Chief Counsel.

Q. The IRS Chief Counsel?

A. The IRS Chief Counsel.

# Testimony of Elizabeth Hofacre
## Revenue Agent in EO Determinations Unit
## May 31, 2013

Q. Okay. Do you always need to go through EO Technical to get assistance on how to draft these kind of letters?

A. No, it was demeaning.

Q. What do you mean by "demeaning"?

A. Well, I might be jumping ahead of myself, but essentially -- typically, no. As a grade 13, one of the criteria is to work independently and do research and make decisions based on your experience and education, whereas in this case, I had no autonomy at all through the process.

Q. So it was unusual for you to have to go through EO Technical to get these letters?

A. Exactly. I mean, exactly, because once he provided me with his letters I used his letters and his questions as a basis for my letters. I didn't cut and paste or cookie cut. So then once I developed my letters from the information in the application, I would email him the letters. And at the same time he instructed me to fax copies of the 1024 so he could review my letters to make sure that they were consistent with the 1024 application.

Q. Was that practice consistent with any other Emerging Issue?

A. I never have done that before or since then.

Q. So even for other Emerging Issues or difficult or challenging applications, you would still have discretion in terms of how to handle them?

A. Yes. Typically, yes.

# Testimony of Carter Hull
## Tax Law Specialist in EO Technical Unit
June 14, 2013

Q. Sir, as you sit here today, do you know the status of those two test cases?

A. Only from hearsay, sir.

Q. What do you know?

A. That the (c)(3) dropped, they decided they didn't want to go any further, and the (c)(4) is still open.

Q. Still open as far as today?

A. As far as I know. I do not know for certain.

Q. So for 3 years since they filed application?

A. Yes, sir.

# Testimony of Carter Hull
## Tax Law Specialist in EO Technical Unit
## June 14, 2013

Q. What did you understand the meeting to be about when you were invited to the meeting?

A. The one thing I remember was Lois Lerner saying someone mentioned Tea Party, and she said no, we are not referring to Tea Parties anymore. They are all now advocacy organizations.

Q. Who called them Tea Party cases?

A. I'm not sure who mentioned Tea Party, but at that point Lois I remember breaking in and saying no, no, we don't refer to those as Tea Parties anymore. They are advocacy organizations.

Q. And what was her tone when saying that?

A. Very firm.

Q. Did she explain why she wanted to change the reference?

A. She said that the Tea Party was just too pejorative.

Q. So she felt the term Tea Party was a pejorative term?

A. Yes. Let me put it this way: I may be – the way she didn't say that's a pejorative term that should not be used. She said no, we will use advocacy organizations. But pejorative is more my word than hers.

# Testimony of Lucinda Thomas
## Manager of EO Determinations Unit
June 28, 2013

Q. Do you think Lois Lerner is a political person?

A. Is she apolitical person?

Q. A, space, political person?

A. I believe that she cares about power and that it's important to her maybe to be more involved with what's going on politically and to me we should be focusing on working the determination cases and closing the cases and it shouldn't matter what type of organization it is. We should be looking at the merits of that case. And it's my understanding that the Washington office has made comments like they would like for – Cincinnati is not as politically sensitive as they would like us to be, and frankly I think that maybe they need to be not so politically sensitive and focus on the cases that we have and working a case based on the merits of those cases.

# Testimony of Carter Hull
## Tax Law Specialist in EO Technical Unit
## June 14, 2013

Q. Did you meet with Ms. Franklin about the cases?

A. We met after she had made her determinations.

Q. After she reviewed the case files?

A. Yes.

Q. And when was this meeting, do you recall?

A. No, I am not sure.

Q. Was it still in 2010?

A. Probably in 2011.

Q. Okay. At some point in 2011?

A. Yes.

Q. Do you recall if it was early 2011, mid-2011?

A. Early-mid.

Q. Okay.

***

A. Maybe in July.

Q. Of 2011.

A. Of 2011. July or August.

***

Q. Okay. And was this meeting just with you and Ms. Franklin?

A. No, there were other people present.

Q. Others in the counsel's office?

A. Two others from the counsel's office.

Q. Anyone else present?

A. Ms. Kastenberg was there. I believe Ms. Goehausen was there. I think there was another TLS there –

Q. I am sorry, another –

A. Another tax law specialist.

Q. Okay.

A. And I can't recall other people that may have been there.

Q. Lois Lerner?

A. I don't think Lois was there.

Q. Holly Paz?

A. I don't think Holly was there. I think Judy was there.

Q. Judy Kindell.

A. Yes.

Q. Do you recall who the two others were from the Chief Counsel's office?

A. One was a manager of Ms. Franklin, and the other guy had been there for years and I keep forgetting his name. I don't know why.

have a block against his name. . . . Yes, he was there. There was another tax law specialist there, Justin Lowe.

Q. Justin Lowe. He is in EO Technical?

A. He was representing the Commissioner, Assistant Commissioner.

Q. Who was at the time Mr. Miller?

A. I think it was Mr. Grant.

Q. Joseph Grant.

A. Yes.

# Testimony of Carter Hull
## Tax Law Specialist in EO Technical Unit
June 14, 2013

Q. Do you know how long the Chief Counsel's office had the case before it made its recommendation?

A. I am not sure of the timeframe at this point.

Q. Okay. Did they give you any feedback on these two cases?

A. Yes, they did.

Q. What did they say?

A. I needed more information. I needed more current information.

Q. What do you mean, more current information?

A. They had it for a while and the information wasn't as current as it should be. They wanted more current information.

Q. So because the cases had been going up this chain for the last year, they needed more current information?

A. Yes, sir.

Q. And what does that mean practically for you?

A. That means that probably I should send out another development letter.

Q. A second development letter?

A. A second development letter. I think also at that time there was a discussion of having a template made up so that all the cases could be worked in the same manner. And my reviewer and I both said a template makes absolutely no difference because these organizations, all of them are different. A template would not work.

Q. You and Ms. Kastenberg agreed that a template wouldn't help?

A. But Mr. Justin Lowe said he would prepare it, along with Don Spellman and whoever else was from Chief Counsel. I never saw it.

# Testimony of Steven Miller
## Acting Commissioner
## November 13, 2013

Q. So, sir, just to get the timeline right, you had a meeting with Ms. Lerner and her staff in or around February 2012?

A. One or more meetings.

Q. One or more meetings. Thank you. And then in mid-March you sit down with your staff and decide that something more needs to be done?

A. Wanted to find out why the cases were there and what was going on.

Q. And did you bat around ideas with your staff about how to find out that information?

A. Yeah, we talked about, okay, who should go out, and the suggestions were, you know, they could have been from the deputy's staff, they could have been from Joseph's staff, they could have been from Lois' staff, and how would we do that.

Q. I see. And who were the candidates to go out there and do the investigation?

A. Really, it came down to Nan Marks, who I had tremendous respect and comfort with. She was – she had been my lawyer in TEGE Counsel, and she knew the area well. She had a wonderful way with talking to people, and she was a natural. And she was out of Joseph's shop, and we thought that it should be outside of Lois' shop, and Nan was the perfect person to lead that.

Q. And, sir, why did you think it should be outside of Ms. Lerner's shop?

A. Just in terms of perception. I didn't think she would whitewash it, but I didn't want any thought that that could happen.

Q. So you wanted to have someone more independent –

A. Right.

Q. – to do the review?

A. Right.

Q. When you say you didn't want any thought that that would happen, who were you worried would think that it was –

A. It doesn't matter. It's just the way we operated.

# Testimony of Ruth Madrigal
## Attorney Advisor in Treasury Department
## February 3, 2014

Q. And ma'am, you wrote, "potentially addressing them." Do you know what you meant by, quote, "potentially addressing them?"

A. Well, at this time, we would have gotten the request to do guidance of general applicability relating to (c)(4)s. And while I can't – I don't know exactly what was in my mind at the time I wrote this, the "them" seems to refer back to the (c)(4)s. And the communications between our offices would have had to do with guidance of general applicability.

Q. So, sitting here today, you take the phrase, "potentially addressing them" to mean issuing guidance of general applicability of 501(c)(4)s?

A. I don't know exactly what was in my head at the time when I wrote this, but to the extent that my office collaborates with the IRS, it's on guidance of general applicability.

Q. And the recipients of this email, Ms. Judson and Ms. Cook are in the Chief Counsel's Office, is that correct?

A. That's correct.

Q. And Ms. Lerner and Ms. Marks are from the Commissioner side of the IRS?

A. At the time of this email, I believe that Nan Marks was on the Commissioner's side, and Ms. Lerner would have been as well, yes.

Q. So those are the two entities involved in rulemaking process or the guidance process for tax exempt organizations, is that right?

A. Correct.

Q. Did you review this document in preparation for appearing here today?

A. I reviewed it briefly, yes.

Q. What did the term "off plan" mean in your email?

A. Again, I don't have a recollection of doing – of writing this email at the time. I can't say with certainty what was meant at the time.

Q. Sitting here today, what do you take the term "off plan" to mean?

A. Generally speaking, off plan would refer to guidance that is not on – or the plan that is mentioned there would refer to the priority guidance plan. And so off plan would be not on the priority guidance plan.

Q. And had you had discussions with the IRS about issuing guidance on 501(c)(4)s that was not placed on the priority guidance plan?

A. In 2012, we – yes, in 2012, there were conversations between my office, Office of Tax Policy, and the IRS regarding guidance relating to qualifications for tax exemption under (c)(4).

Q. And this guidance was in response to requests from outside parties to issue guidance?

A. Yes. Generally speaking, our priority guidance plan process starts with – includes gathering suggestions from the public and evaluating suggestions from the public regarding guidance, potential guidance topics, and by this point, to the best of my recollection, we had had requests to do guidance on this topic.

# Testimony of Janine Cook
## Deputy Division Counsel/Deputy Associate Chief Counsel
August 23, 2013

Q. I think part of my question comes to the fact that by reading the face of the email, it doesn't appear that it's actually an explicit email about having a conversation about it being on plan or off plan. It just looks like it's a conversation where someone says since we mentioned potentially addressing this, and then in parentheses off plan, because it at that time would have been off plan in 2013, I have got my radar up and look at this. Am I misunderstanding that? Is that accurate or –

A. I think in fairness, again, to understand the term, when it says off plan, it means working it. Working on it, but not listing it on the plan. It doesn't mean that we are not in a plan – you are looking at a timing question I think. That's not what the term means. The term – I mean it's a loose term, obviously, it's a coined term, the term means the idea of spending some resources on working it, getting legal issues together, things like that, but not listing it on the published plan as an item we are working. That's what the term off plan means. It's not a timing of the conversation.

# Testimony of Victoria Ann Judson
## Division Counsel/ Associate Chief Counsel
## August 29, 2013

Q. You mentioned a little while ago the Treasury Department. Could you explain the relationship between your position and the Treasury Department?

A. I don't understand that question.

Q. I believe you mentioned that you work with Treasury on guidance, guidance projects?

A. Yes, we do.

Q. Could you explain how that working relationship –

A. Well, when we are working on guidance, first, there is often work at the beginning of each plan year to develop a guidance plan, in which you help decide what your priorities are and what projects you would like to work on during the year. Unfortunately, there is a lot more that we need to do than we can possibly accomplish in a year, so we try to prioritize and talk about what items would be useful to work on and most needed.

We also have items we work on that are off-plan, and there are reasons we don't want to solicit comments. For example, if they might relate to a desire to stop behavior that we feel is inappropriate under the tax law, we might not want to publicize that we are working on that before we come out with the guidance.

So we have a plan, and in developing that plan we will reach out to the field to see if there is guidance they think we need. We solicit comments from practitioners. We talk amongst ourselves and with Treasury. And then we have long lists and everyone goes through them and analyzes them, and then we have meetings to discuss which ones to have on. And often we have meetings with our colleagues at Treasury to do that and then come up with a guidance plan.

When we have items, we then formulate working groups to work on the guidance. And so then we will have staff attorneys from different offices, from the Treasury Department, from my office, with my team, and from people on the Commissioner's side, as well. And they will work together on the guidance. They will discuss issues, hypotheticals, how to structure it.

If they find questions that they think are particularly challenging or they need a call on how to go in their different directions, they will often formulate a briefing paper. Or, in the qualified plan area, we have a weekly time slot set for what we call large group. And in health care, we also have a large group meeting set. And so the staff can present those issues to the large group, often with papers identifying issues and calls that need to be made.

And then individuals, executives from the different areas, both Treasury, the Commissioner's side, and Chief Counsel, will all attend those meetings. We will discuss the issues, often hear a presentation from the working group, and talk about the issues, and decide on the calls or decide that we need more information or analysis, ask questions. So sometimes a decision will be made at that meeting, and sometimes a decision will be made for the working group to do more work and come back again at a subsequent meeting.

# Testimony of Nikole Flax
## Chief of Staff to Steven Miller
## October 22, 2013

Q. And you said before that Mr. Grant wasn't the best witness for that hearing. Was there any discussion about having Ms. Lerner be a witness for that hearing?

A. No.

Q. Why not?

A. Lois is unpredictable. She's emotional. I have trouble talking negative about someone. I think in terms of a hearing witness, she's not the ideal selection.

# Testimony of Lucinda Thomas
## Manager of EO Determinations Unit
June 28, 2013

Q. And what was your reaction to hearing the news?

A. I was really, really mad.

Q. Why?

A. I feel as though Cincinnati employees and EO Determinations was basically thrown under a bus and that the Washington office wasn't taking any responsibility for knowing about these applications, having been involved in them and being the ones to basically delay processing of the cases.

Q. And that's why you took Ms. Lerner to say at that panel event?

A. When, well, my understanding was that she referred to Cincinnati employees as low level workers and that really makes me mad. It's not the first time that she has used derogatory comments about the employees working determination cases and she has done it before. It really makes me mad because the employees in Cincinnati – first of all we haven't gotten that many other, 2009 was our basic last year of hiring any revenue agents except for I believe it was 2012 we were given five revenue agents. And over 400 some thousand organizations have had their exemption revoked and we were given – have been given five revenue agents and we have received I think it's like over 40,000 applications coming in as a result of the audit revocation. There's no way five people are going to be able to handle that, and that's not to mention all of the employees that we've lost because of attrition.

Q. Sure.

A. So we are given no employees to work this. Our employees in EO Determinations are, they are so flexible in doing what is asked of them and working cases and being flexible and moving and doing whatever they're asked to do to try to get more cases closed with no

additional resources and not getting guidance. And it makes me really mad that she would refer to our employees as low level workers.

And also when the folks from D.C. have been in Cincinnati in April of 2012 and when the team met with our folks involved and they were basically reassured that there were mistakes that were made, yes, there were mistakes that were made by folks in Cincinnati as well D.C. but the D.C. office is the one who delayed the processing of the cases. And so they said we're a team, we're in this together. Nobody is going to be thrown under the bus because there were mistakes at all different angles. And then Joseph Grant had a town hall meeting on I believe it was May the 1st or May the 2nd with all of the determinations employees and then he met with a managers and again reassuring everybody that we're not, we're not using any scapegoats here, we're not throwing anybody under the bus, we're a team, there were mistakes made by a lot of different folks.

And then when this information came out on May the 10th, it's like, you weren't going to throw us under the bus?

# Testimony of Lucinda Thomas
## Manager of EO Determinations Unit
June 28, 2013

Q. And you said that this was not the first time that you had heard Ms. Lerner use derogatory terms to refer to Cincinnati employees, is that correct?

A. Yes.

Q. Can you tell us about the other times that she referred to Cincinnati employees in a derogatory manner?

A. I know she referred to us as backwater before. I don't remember when that was. But it's like, there is information when she speaks, there is an individual who writes to EO Issues and puts information in an EO tax journal, it's like a daily release that comes out, and so all of our specialists have access to that. So when she goes out and speaks and then that information is sent through email to all of our employees then people in the office start getting all worked up over these comments.

And here I have employees trying to you know do what they can to help our operation to move forward, and I've got somebody referring to workers in that way when they're trying really hard to close cases, and it's frustrating like how am I supposed to keep them motivated when our so-called leader is referring to people in that direction.

She also makes comments like, well, you're not a lawyer. And excuse me, I'm not a lawyer but that doesn't mean that I don't have something to bring to the table. I know a lot more about IRS operations than she ever will. And just because I'm not a lawyer doesn't mean I'm any less of a person or not as good a worker.

COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

November 19, 2013

The Honorable Darrell Issa
Chairman
Committee on Oversight and
Government Reform
U.S. House of Representatives
Washington, DC 20515

Attention: Katy Rother

Dear Mr. Chairman:

I am responding to your letter dated September 30, 2013. You asked about our plans to evaluate our policy on IRS employee use of non-official email accounts to conduct official business. You also requested a briefing and asked for specific documents.

While the Privacy Act ordinarily protects from disclosure some of the information we are providing in this letter, we are providing you with the requested information under Title 5 of the United States Code section 552a(b)(9). This provision authorizes disclosures of Privacy Act protected information to either house of the Congress or a congressional committee or subcommittee acting under its oversight authority. The enclosed information covers the period of January 1, 2009, through present. Due to employee safety and security concerns, we would appreciate it if you would withhold employee names and, for sensitive positions, position descriptions, if you distribute this information further. We are happy to work with your staff on appropriate redactions if you decide to distribute the information.

Regarding the use of email accounts, the IRS prohibits using non-official email accounts for any government or official purposes (See relevant portions of the enclosed Internal Revenue Manual (IRM) 10.8.1 and 1.10.3, Enclosure 1a and 1b). We teach and reinforce this policy in new employee orientation, core training classes, annual mandatory briefings for managers and employees, and continual service wide communications (see Enclosures 1e, 1f, 1g, 1h for policies and training information). We do not permit IRS officials to send taxpayer information to their personal email addresses. **An IRS employee should not send taxpayer information to his or her personal email address in any form, including redacted.**

IRS employees use their agency email accounts to transmit sensitive but unclassified (SBU) and they use the IRS Secure Messaging (SM) system to encrypt such emails.

(See IRM 11.3.1.14.2, Enclosure 1c). SBU information includes taxpayer data, Privacy Act protected information, some law enforcement information, and other information protected by statute or regulation.

If an employee violates the policy prohibiting the use of non-official email accounts for any government or official purpose, the penalty ranges from a written reprimand to a 5-day suspension on first offense and up to removal depending on prior offenses. (See *IRS Manager's Guide to Penalty Determinations: Failure to observe written regulations, orders, rules, or IRS procedures* and *Misuse/abuse/loss or damage to government property or vehicle,* Enclosure 1d). We identified three past disciplinary actions involving employee misuse of personal email to conduct official business. (See Enclosures 2a, 2b, and 2c.)

You also discuss use of non-official email accounts by four senior IRS officials. The IRS Accountability Review Board, charged with determining potential personnel action based on employee conduct, continues to research potential misuse of personal email by those still employed at the IRS.

The IRS is working diligently to respond to requests for documents for your ongoing investigation. As we have come across official documents sent to non-official email accounts, we have produced them to you and will continue to do so. Additionally, we are happy to arrange a briefing on this subject if you have further questions.

I hope this information is helpful. I am also writing Congressman Jordan. If you have any questions, please contact me, or a member of your staff may contact Scott Landes, Acting Director, Legislative Affairs, at (202) 622-3720.

Sincerely,

Daniel I. Werfel
Acting Commissioner

Enclosures (11)

## U.S. House of Representatives
# Committee on Oversight and Government Reform
**Darrell Issa (CA-49), Chairman**

# Debunking the Myth that the IRS Targeted Progressives: How the IRS and Congressional Democrats Misled America about Disparate Treatment

Staff Report
113th Congress

April 7, 2014

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## Executive Summary

In the immediate aftermath of Lois Lerner's public apology for the targeting of conservative tax-exempt applicants, President Obama and congressional Democrats quickly denounced the IRS misconduct.[1] But later, some of the same voices that initially decried the targeting changed their tune. Less than a month after the wrongdoing was exposed, prominent Democrats declared the "case is solved" and, later, the whole incident to be a "phony scandal."[2] As recently as February 2014, the President explained away the targeting as the result of "bone-headed" decisions by employees of an IRS "local office" without "even a smidgeon of corruption."[3]

To support this false narrative, the Administration and congressional Democrats have seized upon the notion that the IRS's targeting was not just limited to conservative applicants. Time and again, they have claimed that the IRS targeted liberal- and progressive-oriented groups as well – and that, therefore, there was no political animus to the IRS's actions.[4] These Democratic claims are flat-out wrong and have no basis in any thorough examination of the facts. Yet, the Administration's chief defenders continue to make these assertions in a concerted effort to deflect and distract from the truth about the IRS's targeting of tax-exempt applicants.

The Committee's investigation demonstrates that the IRS engaged in disparate treatment of conservative-oriented tax-exempt applicants. Documents produced to the Committee show that initial applications transferred from Cincinnati to Washington were filed by Tea Party groups. Other documents and testimony show that the initial criteria used to identify and hold Tea Party applications captured conservative organizations. After the criteria were broadened in July 2012 to be cosmetically neutral, material provided to the Committee indicates that the IRS still intended to target only conservative applications.

A central plank in the Democratic argument is the claim that liberal-leaning groups were identified on versions of the IRS's "Be on the Look Out" (BOLO) lists.[5] This claim ignores significant differences in the placement of the conservative and liberal entries on the BOLO lists

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[1] *See, e.g.*, The White House, Statement by the President (May 15, 2013) (calling the IRS targeting "inexcusable"); *"The IRS: Targeting Americans for their Political Beliefs": Hearing before the H. Comm. on Oversight & Gov't*, 113th Cong. (2013) (statement of Ranking Member Elijah E. Cummings) ("The inspector general has called the action by IRS employees in Cincinnati, quote, "inappropriate," unquote, but after reading the IG's report, I think it goes well beyond that. I believe that there was gross incompetence and mismanagement in how the IRS determined which organizations qualified for tax-exempt status."); Press Release, Rep. Nancy Pelosi, Pelosi Statement on Reports of Inappropriate Activities at the IRS (May 13, 2013) ("While we look forward to reviewing the Inspector General's report this week, it is clear that the actions taken by some at the IRS must be condemned. Those who engaged in this behavior were wrong and must be held accountable for their actions.").

[2] *State of the Union with Candy Crowley* (CNN television broadcast June 9, 2013) (interview with Rep. Elijah E. Cummings); *Fox News Sunday* (Fox News television broadcast July 28, 2013) (interview with Treasury Secretary Jacob Lew).

[3] *"Not even a smidgeon of corruption": Obama downplays IRS, other scandals*, FOX NEWS, Feb. 3, 2014.

[4] *See, e.g.*, Lauren French & Rachael Bade, *Democratic Memo: IRS Targeting Was Not Political*, POLITICO, July 17, 2013.

[5] *See Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013).

and how the IRS used the BOLO lists in practice. The Democratic claims are further undercut by testimony from IRS employees who told the Committee that liberal groups were not subject to the same systematic scrutiny and delay as conservative organizations.[6]

The IRS's independent watchdog, the Treasury Inspector General for Tax Administration (TIGTA), confirms that the IRS treated conservative applicants differently from liberal groups. The inspector general, J. Russell George, wrote that while TIGTA found indications that the IRS had improperly identified Tea Party groups, it "did not find evidence that the criteria [Democrats] identified, labeled 'Progressives,' were used by the IRS to select potential political cases during the 2010 to 2012 timeframe we audited."[7] He concluded that TIGTA "found no indication in any of these other materials that 'Progressives' was a term used to refer cases for scrutiny for political campaign intervention."[8]

An analysis performed by the House Committee on Ways and Means buttresses the Committee's findings of disparate treatment. The Ways and Means Committee's review of the confidential tax-exempt applications proves that the IRS systematically targeted conservative organizations. Although a small number of progressive and liberal groups were caught up in the application backlog, the Ways and Means Committee's review shows that the backlog was 83 percent conservative and only 10 percent were liberal-oriented.[9] Moreover, the IRS approved 70 percent of the liberal-leaning groups and only 45 percent of the conservative groups.[10] The IRS approved every group with the word "progressive" in its name.[11]

In addition, other publicly available information supports the analysis of the Ways and Means Committee. In September 2013, *USA Today* published an independent analysis of a list of about 160 applications in the IRS backlog.[12] This analysis showed that 80 percent of the applications in the backlog were filed by conservative groups while less than seven percent were filed by liberal groups.[13] A separate assessment from *USA Today* in May 2013 showed that for 27 months beginning in February 2010, the IRS did not approve a single tax-exempt application filed by a Tea Party group.[14] During that same period, the IRS approved "perhaps dozens of applications from similar liberal and progressive groups."[15]

The IRS, over many years, has undoubtedly scrutinized organizations that embrace different political views for varying reasons – in many cases, a just and neutral criteria may have

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[6] *See, e.g.*, Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013); Transcribed interview of Stephen Daejin Seok, Internal Revenue Serv., in Wash., D.C. (June 19, 2013); Transcribed interview of Lucinda Thomas, Internal Revenue Serv., in Wash., D.C. (June 28, 2013).
[7] Letter from J. Russell George, Treasury Inspector Gen. for Tax Admin., to Sander M. Levin, H. Comm. on Ways & Means (June 26, 2013).
[8] *Id.*
[9] *Hearing on the Internal Revenue Service's Exempt Organizations Division Post-TIGTA Audit: Hearing before the Subcomm. on Oversight of the H. Comm. on Ways & Means*, 113th Con. (2013) (opening statement of Chairman Charles Boustany) [hereinafter "Ways and Means Committee September 18th Hearing"].
[10] *Id.*
[11] *Id.*
[12] *See* Gregory Korte, *IRS List Reveals Concerns over Tea Party 'Propaganda,'* USA TODAY, Sept. 18, 2013.
[13] *Id.*
[14] Gregory Korte, *IRS Approved Liberal Groups while Tea Party in Limbo*, USA TODAY, May 15, 2013.
[15] *Id.*

been fairly utilized. This includes the time period when Tea Party organizations were systematically screened for enhanced and inappropriate scrutiny. But the concept of *targeting*, when defined as a systematic effort to select applicants for scrutiny simply because their applications reflected the organizations' political views, only applied to Tea Party and similar conservative organizations. While use of term "targeting" in the IRS scandal may not always follow this definition, the reality remains that there is simply no evidence that any liberal or progressive group received enhanced scrutiny because its application reflected the organization's political views.

For months, the Administration and congressional Democrats have attempted to downplay the IRS's misconduct. First, the Administration sought to minimize the fallout by preemptively acknowledging the misconduct in response to a planted question at an obscure Friday morning tax-law conference. When that strategy failed, the Administration shifted to blaming "rogue agents" and "line-level" employees for the targeting. When those assertions proved false, congressional Democrats baselessly attacked the character and integrity of the inspector general. Their attempt to allege bipartisan targeting is just another effort to distract from the fact that the Obama IRS systematically targeted and delayed conservative tax-exempt applicants.

## Findings

- The IRS treated Tea Party applications distinctly different from other tax-exempt applications.

- The IRS selectively prioritized and produced documents to the Committee to support misleading claims about bipartisan targeting.

- Democratic Members of Congress, including Ranking Member Elijah Cummings, Ranking Member Sander Levin, and Representative Gerry Connolly, made misleading claims that the IRS targeted liberal-oriented groups based on documents selectively produced by the IRS.

- The IRS's "test" cases transferred from Cincinnati to Washington were exclusively filed by Tea Party applicants: the Prescott Tea Party, the American Junto, and the Albuquerque Tea Party.

- The IRS's initial screening criteria captured exclusively Tea Party applications.

- Even after Lois Lerner broadened the screening criteria to maintain a veneer of objectivity, the IRS still sought to target and scrutinize Tea Party applications.

- The IRS targeting captured predominantly conservative-oriented applications for tax-exempt status.

- Myth: IRS "Be on the Lookout" (BOLO) entries for liberal groups meant that the IRS targeted liberal and progressive groups. Fact: Only Tea Party groups on the BOLO list experienced systematic scrutiny and delay.

- Myth: The IRS targeted "progressive" groups in a similar manner to Tea Party applicants. Fact: The IRS treated "progressive" groups differently than Tea Party applicants. Only seven applications in the IRS backlog contained the word "progressive," all of which were approved by the IRS. The IRS processed progressive applications like any other tax-exempt application.

- Myth: The IRS targeted ACORN successor groups in a similar manner to Tea Party applicants. Fact: The IRS treated ACORN successor groups differently than Tea Party applicants. ACORN successor groups were not subject to a "sensitive case report" or reviewed by the IRS Chief Counsel's office. The central issue for the ACORN successor groups was whether the groups were legitimate new entities or part of an "abusive" scheme to continue an old entity under a new name.

- Myth: The IRS targeted Emerge affiliate groups in a similar manner to Tea Party applicants. Fact: The IRS treated Emerge affiliate groups differently than Tea Party

applicants. Emerge applications were not subjected to secondary screening like the Tea Party cases. The central issue in the Emerge applications was private benefit, not political speech.

- Myth: The IRS targeted Occupy groups in a similar manner to Tea Party applicants. Fact: The IRS treated Occupy groups differently than Tea Party applicants. No applications in the IRS backlog contained the words "Occupy." IRS employees testified that they were not even aware of an Occupy entry on the BOLO list.

## Coordinated and misleading Democratic claims of bipartisan IRS targeting

As the IRS targeting scandal grew, the Administration and congressional Democrats began peddling the allegation that the IRS targeting was not just limited to conservative tax-exempt application, but that the IRS had targeted liberal-leaning groups as well. These assertions kick-started when Acting IRS Commissioner Daniel Werfel told reporters that IRS "Be on the Look Out" lists included entries for liberal-oriented groups. Congressional Democrats seized upon his announcement and immediately began feeding the false narrative that liberal groups received the same systematic scrutiny and delay as conservative applicants. In the ensuing months, the IRS even reconsidered its previous redactions to provide congressional Democrats with additional fodder to support their assertions. Although TIGTA and others have rebuffed the Democratic argument, senior members of the Administration and in Congress continue this coordinated narrative that the IRS targeting was broader than conservative applicants.

## *The IRS acknowledges that portions of its BOLO lists included liberal-oriented entries*

On June 24, 2013, Acting IRS Commissioner Daniel Werfel asserted during a conference call with reporters that the IRS's misconduct was broader than just conservative applicants.[16] Werfel told reporters that "[t]here was a wide-ranging set of categories and cases that spanned a broad spectrum."[17] Although Mr. Werfel refused to discuss details about the "inappropriate criteria that was [*sic*] in use," the IRS produced to Congress hundreds of pages of self-selected documents that supported his assertion.[18] The IRS prioritized producing these documents over other material, producing them when the Committee had received less than 2,000 total pages of IRS material. Congressional Democrats had no qualms in putting these self-selected documents to use.

Virtually simultaneous with Mr. Werfel's conference call, Democrats on the House Ways and Means Committee trumpeted the assertion that the IRS targeted liberal groups similarly to conservative organizations.[19] Ranking Member Sander Levin (D-MI) released several versions of the IRS BOLO list.[20] Because these versions included an entry labeled "progressives," Ranking Member Levin alleged that "[t]he [TIGTA] audit served as the basis and impetus for a wide range of Congressional investigations and **this new information shows that the**

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[16] *See* Alan Fram, *Documents show IRS also screened liberal groups*, ASSOC. PRESS, June 24, 2013.
[17] *Id.*
[18] *See* Letter from Leonard Oursler, Internal Revenue Serv., to Darrell Edward Issa, H. Comm. on Oversight & Gov't Reform (June 24, 2013).
[19] Press Release, H. Comm. on Ways & Means Democrats, New IRS Information Shows "Progressives" Included on BOLO Screening List (June 24, 2013).
[20] *Id.*

**foundation of those investigations is flawed in a fundamental way**."[21] (emphasis added). These documents would initiate a sustained campaign designed to falsely allege that the IRS engaged in bipartisan targeting.

## *Ways and Means Committee Democrats allege bipartisan IRS targeting*

During a hearing of the Ways and Means Committee on June 27, 2013, Democrats continued to spin this false narrative, arguing that liberal groups were mistreated similarly to conservative groups. Ranking Member Levin proclaimed during his opening statement:

> This week we learned for the first time the three key items, one, the screening list used by the IRS included the term "progressives." Two, progressive groups were among the 298 applications that TIGTA reviewed in their audit and received heightened scrutiny. And, three, the inspector general did not research how the term "progressives" was added to the screening list or how those cases were handled by a different group of specialists in the IRS. The failure of the I.G.'s audit to acknowledge these facts is a fundamental flaw in the foundation of the investigation and the public's perception of this issue.[22]

Other Democratic Members picked up this thread. While questioning the hearing's only witness, Acting IRS Commissioner Werfel, Representative Charlie Rangel (D-NY) raised the specter of bipartisan targeting. He stated:

> Mr. RANGEL: You said there's diversity in the BOLO lists. And you admit that conservative groups were on the BOLO list. Why is it that we don't know whether or not there were progressive groups on the BOLO list?
>
> Mr. WERFEL: Well, we do know that – that the word "progressive" did appear on a set of BOLO lists. We do know that. When I was articulating the point about diversity, I was trying to capture that the types of political organizations that are on these BOLO lists are wide ranging. But they do include progressives.[23]

Similarly, Representative Joseph Crowley (D-NY) alleged that the IRS mistreated progressive groups identically to Tea Party groups. He said:

> As the weeks have gone on, we have seen that there is a culture of intimidation, but not from the White House, but rather from my Republican colleagues. **We know for a fact that there has been targeting of both tea party and**

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[21] *Id.*

[22] *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013) (statement of Ranking Member Sander Levin).

[23] *Id.* (question and answer with Representative Charlie Rangel).

**progressive groups by the IRS. . . . Then, as we see, the progressive groups were targeted side by side with their tea party counterpart groups.**[24] (emphasis added).

## *Acting IRS Commissioner volunteers to testify at the Oversight Committee's July 17, 2013 subcommittee hearing*

On July 17, 2013, the Oversight Committee convened a joint subcommittee hearing on ObamaCare security concerns, featuring witnesses from the federal agencies involved in the law's implementation.[25] The Chairmen invited Sarah Hall Ingram, the Director of the IRS ObamaCare office, to testify.[26] Prior to the hearing, however, Acting IRS Commissioner Werfel personally intervened and volunteered himself to testify as the IRS witness in Ms. Ingram's place. Committee Democrats used Mr. Werfel's appearance as an opportunity to continue pushing their false narrative of bipartisan IRS targeting.

During the hearing, Ranking Member Elijah Cummings (D-MD) used the majority of his five-minute period to question Mr. Werfel not on the subject matter of the hearing, but rather on the IRS's treatment of liberal tax-exempt applicants. They engaged in the following exchange:

Mr. CUMMINGS. I would like to ask you about the ongoing investigation into the treatment of Tea Party applicants for tax exempt status. During our interviews, we have been told by more than one IRS employee that there were progressive or left-leaning groups that received treatment similar to the Tea Party applicants. As part of your internal review, have you identified non-Tea Party groups that received similar treatment?

Mr. WERFEL. Yes.

Mr. CUMMINGS. We were told that one category of applicants had their applications denied by the IRS after a 3-year review; is that right?

Mr. WERFEL. Yes, that's my understanding that there is a group or seven groups that had that experience, yes.[27]

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[24] *Id.* (question and answer with Representative Joseph Crowley).

[25] *"Evaluating Privacy, Security, and Fraud Concerns with ObamaCare's Information Sharing Apparatus": J. Hearing before the Subcomm. on Energy Policy, Health Care and Entitlements of the H. Comm. on Oversight and Gov't Reform and the Subcomm. on Cybersecurity, Infrastructure Protection, and Security Technologies of the H. Comm. on Homeland Security*, 113th Cong. (2013) [hereinafter "July 17th Hearing"].

[26] *See* Letter from James Lankford, H. Comm. on Oversight & Gov't Reform, & Patrick Meehan, H. Comm. on Homeland Security, to Sarah Hall Ingram, Internal Revenue Serv. (July 10, 2013).

[27] July 17th Hearing, *supra* note 25.

It is certain that Ranking Member Cummings would not have had the opportunity to ask these questions had Ms. Ingram testified as originally requested.

The circumstances of Mr. Werfel's statements are striking. He volunteered to replace the undisputed IRS expert on ObamaCare at a hearing focusing on ObamaCare security, after being at the IRS for less than two months. He volunteered to testify at a subcommittee the day before the Committee convened a hearing that would feature testimony about the IRS's targeting of conservative applicants. By all indications, Mr. Werfel's testimony allowed congressional Democrats to continue to perpetuate the myth of bipartisan IRS targeting.

## *Democrats attack the Inspector General during the Oversight Committee's July 18, 2013 hearing*

Unsurprisingly, Democrats on the Oversight Committee highlighted Mr. Werfel's assertions as their main narrative during a Committee hearing on the IRS targeting the following day. During his opening statement, Ranking Member Cummings criticized Treasury Inspector General for Tax Administration J. Russell George, accusing him of ignoring liberal groups targeted by the IRS.[28] Ranking Member Cummings stated:

> I also want to ask the Inspector General why he was unaware of documents we have now obtained showing that the IRS employees were also instructed to screen for progressive applicants and why his office did not look into the treatment of left-leaning organizations, such as Occupy groups. I want to know how he plans to address these new documents. Again, we represent conservative groups on both sides of the aisle, and progressives and others, and so all of them must be treated fairly.[29]

Representative Danny Davis (D-IL) utilized Mr. Werfel's testimony from the day before to also criticize the inspector general. Representative Davis said:

> **Yesterday, the principal deputy commissioner of the Internal Revenue Service, Danny Werfel, testified before this committee that progressive groups received treatment from the IRS that was similar to Tea Party groups when they applied for tax exempt status**. In fact, Congressman Sandy Levin, who is the ranking member of the Ways and Means Committee, explained these similarities in more detail. He said the IRS took years to resolve these cases, just like the Tea Party cases. And he said the IRS, one, screened for these groups, transferred them to the Exempt Organizations Technical Unit, made them the subject of a sensitive case report, and had them reviewed by the Office of Chief Counsel. According to the information provided to the Committee on Ways and Means, some of these progressive groups actually had their applications denied

[28] *"The IRS's Systematic Delay and Scrutiny of Tea Party Applications": Hearing before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (2013) (statement of Ranking Member Elijah E. Cummings) [hereinafter "July 18th Hearing"].
[29] *Id.*

> after a 3-year wait, and the resolution of these cases happened during the time period that the inspector general reviewed for its audit.[30] (emphasis added).

Inspector General George testified at the hearing to defend his work and debunk Democratic myths of bipartisan targeting. Committee Democrats took the opportunity to harshly interrogate Mr. George, using Mr. Werfel's testimony. Representative Gerry Connolly (D-VA) said to him:

> Well, so I want to make sure—you're under oath, again—it is your testimony today, as it was in May, but let's limit it to today, that at the time you testified here in May you had absolutely no knowledge of the fact that in any screening, BOLOs or otherwise, the words "Progressive," "Democrat," "MoveOn," never came up. You were only looking at "Tea Party" and conservative-related labels. You were unaware of any flag that could be seen as a progressive—the progressive side of things.[31]

Similarly, Representative Jackie Speier (D-CA) told Mr. George:

> Now, that seems completely skewed, Mr. George, if you are indeed an unbiased, impartial watch dog. It's as if you only want to find emails about Tea Party cases. These search terms do not include any progressive or liberal or left-leaning terms at all. Why didn't you search for the term "progressive"? It was specifically mentioned in the same BOLO that listed Tea Party groups.[32]

Representative Carolyn Maloney (D-NY) said:

> How in the world did you get to the point that you only looked at Tea Party when liberals and progressives and Occupy Wall Street and conservatives are just as active, if not more active, and would certainly be under consideration. That is just common plain sense. And I think that some of your statements have not been—it defies—it defies logic, it defies belief that you would so limit your statements and write to Mr. Levin and write to Mr. Connolly that of course no one was looking at any other area.[33]

Armed with self-selected IRS documents and Mr. Werfel's testimony, congressional Democrats vehemently attacked TIGTA in an attempt to undercut its findings that the IRS had targeted conservative tax-exempt applicants. Their *ad hominen* attacks on an independent inspector general sought to distract and deflect from the real misconduct perpetrated by the IRS.

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[30] *Id.* (question and answer with Representative Danny Davis).
[31] *Id.* (question and answer with Representative Gerry Connolly).
[32] *Id.* (question and answer with Representative Jackie Speier).
[33] *Id.* (question and answer with Representative Carolyn Maloney).

## *The IRS reinterprets legal protections for taxpayer information to bolster Democratic allegations*

The IRS was not an unwilling participant in spinning this false narrative. Section 6103 of federal tax law protects confidential taxpayer information from public dissemination.[34] Under the tax code, however, the IRS may release confidential taxpayer information to the House Ways and Means Committee and the Senate Finance Committee.[35] The IRS cited this provision of law to withhold vital details about the targeting scandal from the American public. The prohibition did not stop the IRS from releasing information helpful to its cause.

In August 2013, the IRS suddenly reversed its interpretation of the law. In a letter to Ways and Means Ranking Member Levin – who already had access to confidential taxpayer information – Acting IRS Commissioner Werfel wrote: "Consistent with our continuing efforts to provide your Committee and the public with as much information as possible regarding the Service's treatment of tax exempt advocacy organizations, we are re-releasing certain redacted documents that had been previously provided to your Committee."[36] Mr. Werfel explained the reversal as the result of "our continuing review of the documents" and "a thorough section 6103 analysis."[37] The reinterpretation allowed the IRS to release information related to "ACORN Successors" and "Emerge" groups.[38]

Congressional Democrats embraced the IRS's sudden reversal. Releasing new IRS documents, Ranking Member Levin and Ranking Member Cummings issued a joint press release announcing that "**new information from the IRS that provides further evidence that progressive groups were singled out for scrutiny in the same manner as conservative groups**."[39] (emphasis added). Ranking Member Levin proclaimed: "These new documents make it clear the IRS scrutiny of the political activity of 501(c)(4) organizations covered a broad spectrum of political ideology and was not politically motivated."[40] Ranking Member Cummings similarly intoned: "This new information should put a nail in the coffin of the Republican claims that the IRS's actions were politically motivated or were targeted at only one side of the political spectrum."[41]

The IRS's sudden reinterpretation of section 6103 allowed congressional Democrats to continue their assault on the truth. Again using documents self-selected by the IRS, these defenders of the Administration carried on their rhetorical campaign to convince Americans that the IRS treated liberal applicants identically to Tea Party applicants.

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[34] I.R.C. § 6103.
[35] *Id.* § 6103(f).
[36] Letter from Daniel I. Werfel, Internal Revenue Serv., to Sander Levin, H. Comm. on Ways & Means (Aug. 19, 2013), *available at* http://democrats.waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/IRS%20Letter%20to%20Levin%20August%2019%2C%202013.pdf.
[37] *Id.*
[38] *Id.*
[39] Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov't Reform Democrats, New Documents Highlight IRS Scrutiny of Progressive Groups (Aug. 20, 2013).
[40] *Id.*
[41] *Id.*

## *Recent Democratic efforts to perpetuate the myth of bipartisan IRS targeting*

Democratic efforts to spin the IRS targeting continue through the present. On January 29, 2014, Senator Chris Coons raised the allegation while questioning Attorney General Eric Holder about the Administration's investigation into the IRS's targeting. Senator Coons stated:

> Well, thank you, Mr. Attorney General. I -- I join a number of colleagues in urging and hoping that the investigation into IRS actions is done in a balanced and professional and appropriate way. And I assume it is, unless demonstrated otherwise. **And what I've heard is that there were progressive groups, as well as tea party groups, that were perhaps allegedly on the receiving end of reviews of the 501(c)(3) applications**. And it's my expectation that we'll hear more in an appropriate and timely way about the conduct of this investigation.[42] (emphasis added).

On February 3, 2014, during his daily briefing, White House Press Secretary Jay Carney echoed the Democratic line that the IRS targeted liberal groups in the same manner in which it targeted conservative groups. In defending the President's comments about "not even a smidgeon of corruption," Mr. Carney said:

> Q Jay, in the President's interview with Bill O'Reilly last night, he said that there was "not even a smidgen of corruption," regarding the IRS targeting conservative groups. Did the President misspeak?
>
> A No, he didn't. But I can cite – I think have about 20 different news organizations that cite the variety of ways that that was established, including by the independent IG, who testified in May and, as his report said, that **he found no evidence that anyone outside of the IRS had any involvement in the inappropriate targeting of conservative – or progressive, for that matter – groups in their applications for tax-exempt status**. So, again, I think that this is something –[43] (emphasis added).

During debate on the House floor on H.R. 3865, the Stop Targeting of Political Beliefs by the IRS Act of 2014, Ways and Means Committee Ranking Member Levin spoke in opposition to the bill. He said:

> On a day when the Chairman of the Ways and Means Committee, Mr. Camp, is unveiling a tax measure that requires serious bipartisanship to be successful, we are here on the floor considering a totally political bill in an attempt to resurrect an alleged scandal that never existed. . . . **And what have we learned? That**

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[42] *"Oversight of the U.S. Department of Justice": Hearing before the S. Comm. on the Judiciary*, 113th Cong. (2014) (question and answer with Senator Chris Coons).

[43] The White House, Press Briefing by Press Secretary Jay Carney, 2/3/14, http://www.whitehouse.gov/photos-and-video/video/2014/02/03/press-briefing#transcript.

> **both progressive and conservative groups were inappropriately screened out by name and not by activity.**[44] (emphasis added).

As recently as early March 2014, Democrats have been spreading the myth that liberal-oriented groups were targeted in the same manner as conservative organizations. Appearing on *The Last Word with Lawrence O'Donnell*, Representative Gerry Connolly continued the Democratic allegations of bipartisan targeting. Representative Connolly said:

> You know, that's true, but I think we need to back up. This is not an honest inquiry. This is a Star Chamber operation. **This is cherry picking information, deliberately colluding with a Republican idea in the IRS to make sure the investigation is solely about tea party and conservative groups even though we know that the tilt is included progressive titles as well as conservative titles and that they were equally stringent.** It was a foolish thing to do. And it's wrong, but it was not just targeted at conservatives. But Darrell Issa wants to make sure that information does not get out.[45] (emphasis added).

The Democratic myth of bipartisan IRS targeting simply will not die. Working hand in hand with the Obama Administration's IRS, congressional Democrats vigorously asserted that the IRS mistreated liberal tax-exempt applicants in a manner identical to Tea Party groups. The IRS – the very same agency under fire for its actions – assisted these efforts by producing self-selected documents and volunteering helpful information. The result has been a fundamental misunderstanding of the truth about the IRS's targeting of conservative tax-exempt applicants.

## The Truth: The IRS engaged in disparate treatment of conservative applicants

Contrary to Democratic claims, substantial documentary and testimonial evidence shows that the IRS systematically engaged in disparate treatment of conservative tax-exempt applicants. The Committee's investigation shows that the initial applications sent to the Washington as "test" cases were all filed by Tea Party-affiliated groups. The IRS screening criteria used to identify and separate additional applications also initially captured exclusively Tea Party organizations. Even after the criteria were changed, documents show the IRS intended to identify and separate Tea Party applications for review.

No matter how hard the Administration and congressional Democrats try to spin the facts about the IRS targeting, it remains clear that the IRS treated conservative tax-exempt applicants differently. As detailed below, the IRS treated Tea Party and other conservative tax-exempt applicants unlike liberal or progressive applicants.

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[44] Press Release, H. Comm. on Ways & Means Democrats, Levin Floor Statement on H.R. 3865 (Feb. 26, 2014).
[45] *The Last Word with Lawrence O'Donnell* (MSNBC television broadcast Mar. 5, 2014) (interview with Representative Gerry Connolly).

## *The Committee's evidence shows the IRS sought to identify and scrutinize Tea Party applications*

To date, the Committee has reviewed over 400,000 pages of documents produced by the IRS, TIGTA, the IRS Oversight Board, and others. The Committee has conducted transcribed interviews of 33 IRS employees, totaling over 217 hours. From this exhaustive undertaking, one fundamental finding is certain: the IRS sought to identify and scrutinize Tea Party applications separate and apart from any other tax-exempt applications, including liberal or progressive applications.

## The initial "test" cases were exclusively Tea Party applications

From documents produced by the IRS, the Committee is aware that the initial test cases transferred to Washington in spring 2010 to be developed as templates were applications filed by Tea Party-affiliated organizations. According to one document entitled "Timeline for the 3 exemption applications that were referred to [EO Technical] from [EO Determinations]," the Washington office received the 501(c)(3) application filed by the Prescott Tea Party, LLC on April 2, 2010.[46] The same day, the Washington office received the 501(c)(4) application filed by the Albuquerque Tea Party, Inc.[47] After Prescott Tea Party did not respond to an IRS information request, the IRS closed the application "FTE" or "failure to establish." The Washington office asked for a new 501(c)(3) application, and it received the application filed by American Junto, Inc., on June 30, 2010.[48]

Testimony provided by veteran IRS tax law specialist Carter Hull, who was assigned to work the test cases in Washington, confirms that they were exclusively Tea Party applications. He testified:

Q Now, sir, in this period, roughly March of 2010, was there a time when someone in the IRS told you that you would be assigned to work on two Tea Party cases?

A Yes.

***

Q Do you recall when precisely you were told that you would be assigned two Tea Party cases?

A When precisely, no.

Q Sometime in –

[46] Internal Revenue Serv., Timeline from the 3 exemption applications that were referred to EOT from EOD. [IRSR 58346-49]
[47] *Id.*
[48] *Id.*

A Sometime in the area, but I did get, they were assigned to me in April.

***

Q Okay, and just to be clear, April of 2010?

A Yes.

***

Q And sir, were they cases 501(c)(3)s, or 501(c)(4)s?

A One was a 501(c)(3), and one was a 501(c)(4).

Q So one of each?

A One of each.

Q What, to your knowledge, was it intentional that you were sent one of each?

A Yes.

Q Why was that?

A I'm not sure exactly why. I can only make assumptions, but those are the two areas that usually had political possibilities.

***

Q The point of my question was, no one ever explained to you that you were to understand and work these cases for the purpose of working similar cases in the future?

***

A All right, I -- I was given -- they were going to be test cases to find out how we approached (c)(4), and (c)(3) with regards to political activities.

***

Q Mr. Hull, before we broke, you were talking about these two cases being test cases, is that right? Do you recall that?

A I realized that there were other cases. I had no idea how many, but there were other cases. And they were trying to find out how we should approach these organizations, and how we should handle them.

***

Q And when you say these organizations, you mean Tea Party organizations?

A The two organizations that I had.[49]

Hull's testimony also confirms that the Washington IRS office requested a similar 501(c)(3) application to replace the Prescott Tea Party's application. He testified:

Q Did you send out letters to both organizations the 501(c)(3) and 501(c)(4)?

A I did.

Q Did you get responses from both organizations?

A I got response from only one organization.

Q Which one?

A The (c)(4).

Q (C)(4). What did you do with the case that did not respond?

A I tried to contact them to find out whether they were going to submit anything.

Q By telephone?

A By telephone. And I never got a reply.

Q Then what did you do with the case?

A I closed it, failure to establish.

***

Q So at this time, when the (c)(3) became the FTE, did you begin to work only on the (c)(4)?

[49] Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013).

A I notified my supervisor that I would need another (c)(3) if they wanted me to work one of each.

***

Q How did you phrase the request to Ms. Hofacre? Was it -- were you asking for another (c)(3) Tea Party application?

A I was asking for another (c)(3) application in the lines of the first one that she had sent up. I'm not sure if I asked her for a particular organization or a particular type of organization. I needed a (c)(3) that was maybe involved in political activities.

Q And the first (c)(3), it was a Tea Party application?

A Yes, it was.[50]

[50] Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013).

## Fig. 1: IRS Timeline of Tea Party "test" cases[51]

**A. Timeline for the 3 exemption applications that were referred to EOT from EOD**

| 1. Prescott Tea Party, LLC | 2. American Junto, Inc. | 3. Albuquerque Tea Party, Inc. |
|---|---|---|
| The Applicant sought exemption under §501(c)(3) formed to educate the public on current political issues, constitutional rights, fiscal responsibility, and support for a limited government. It planned to undertake this educational activity through rallies, protests, educational videos and through its website. The organization also intended to engage in legislative activities. The case was closed FTE on May 26, 2010. | The organization applied for exemption under §501(c)(3), stating it was formed to educate voters on current social and political issues, the political process, limited government, and free enterprise. It also indicated it would be involved in political campaign intervention and legislative activities. The case was closed FTE on January 4, 2012. | The organization applied for exemption under §501(c)(4) as a social welfare organization for purposes of issue advocacy and education. A proposed adverse is being prepared on the basis that the organization's primary activity is political campaign intervention supporting candidates associated with a certain political faction, its educational activities are partisan in nature, and its activities are intended to benefit candidates associated with a specific political faction as opposed to benefiting the community as a whole. |
| **Timeline:**<br>**2009**<br>• **11/09/2009** → Application received by EOD.<br>• **12/18/2009** → Case assigned to EOD specialist.<br>**2010**<br>• **3/08/2010** → **Date the case was referred to EOT.** Case pulled from | **Timeline:**<br>**2010**<br>• **2/11/2010** → Application was received by EOD. | **Timeline:**<br>**2010**<br>• **1/4/2010** → Application was received by EOD. |
| EOD files to send to EOT for review.<br>• **3/11/2010** → EOD prepared a memo to transfer the case to EOT as part of EOT's review of some of the "advocacy organization" cases being received in EOD.<br>• **4/02/2010** → Case assigned to EOT.<br>• **4/14/2010** → 1st development letter mailed to Taxpayer (Response due by 5/06/2010).<br>• **5/26/2010** → Case closed FTE (90-day suspense date ended on 8/26/2010). | • **4/11/2010** → Case assigned to a specialist in EOD.<br>• **4/25/2010** → EOD emailed EOT (Manager Steve Grodnitzky) regarding who EOD should contact for help on "advocacy organization" cases being held in screening.<br>• **5/25/2010** → EOT requested a §501(c)(3) "advocacy organization" case be transferred from EOD to replace Prescott Tea Party, LLC, a §501(c)(3) advocacy organization applicant that had been closed FTE.<br>• **6/25/2010** → Memo proposing to transfer the case to EOT was prepared by EOD specialist.<br>• **6/30/2010** → **Date the case was referred to EOT.**<br>• **7/7/2010** → 1st development letter sent (Response due by 7/28/2010).<br>• **7/28/2010** → EOT received Taxpayer's response to 1st development letter. | • **2/22/2010** → Case assigned to EOD specialist.<br>• **3/11/2010** → EOD prepared memo to transfer the case to EOT as part of EOT's help reviewing the "advocacy organization" cases received in EOD.<br>• **4/02/2010** → Case assigned to EOT.<br>• **4/21/2010** → 1st development letter sent (Response due by 5/12/2010).<br>• **4/29/2010** → Taxpayer requested extension for time to respond to 1st development letter. TLS granted extension until 6/11/2010.<br>• **6/8/2010** → EOT received the Taxpayer's response to 1st development letter. |

[51] Internal Revenue Serv., Timeline from the 3 exemption applications that were referred to EOT from EOD. [IRSR 58346-49]

## The initial screening criteria captured exclusively Tea Party applications

Documents and testimony provided to the Committee show that the IRS's initial screening criteria captured only conservative organizations. According to a briefing paper prepared for Exempt Organizations Director Lois Lerner in July 2011, the IRS identified applications and held them if they met any of the following criteria:

- "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
- Issues include government spending, government debt or taxes
- Education of the public by advocacy/lobbying to "make America a better place to live"
- Statements in the case file criticize how the country is being run.[52]

Based on these criteria, which skew toward conservative ideologies, the IRS sent applications to a specific group in Cincinnati.

**Fig. 2: IRS Briefing Document Prepared for Lois Lerner**[53]

**Background:**

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.
- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
  - "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
  - Issues include government spending, government debt or taxes
  - Education of the public by advocacy/lobbying to "make America a better place to live"
  - Statements in the case file criticize how the country is being run

Testimony presented by the two Cincinnati employees shows that the initial applications in the growing IRS backlog were exclusive Tea Party applications. Elizabeth Hofacre, who oversaw the cases from April 2010 to October 2010, testified during her transcribed interview that "we were looking at Tea Parties." She testified:

Q And you mentioned the Tea Party cases. Do you have an understanding of whether the Tea Party cases were part of that grouping of organizations with political activity, or were they separate?

A That was the group of political cases.

Q So why do you call them Tea Parties if it includes more than –

[52] Justin Lowe, Internal Revenue Serv., Increase in (c)(3)/(c)(4) Advocacy Org. Applications (2011). [IRSR 2735]
[53] *Id.*

A Well, at that time that's all they were. That's all that we were -- that's how we were classifying them.

Q In 2010, you were classifying any organization that had political activity as a Tea Party?

A No, it's the latter. I mean, we were looking at Tea Parties. I mean, political is too broad.

Q What do you mean when you say political is too broad?

A No, because when -- what do you mean by "political"?

Q Political activity -- if an application has an indication of political activity in it.

**A I mean, I was tasked with Tea Party, so that's all I'm aware of. So I wasn't tasked with political in general.**

**Q Was there somebody who was tasked with political in general?**

**A Not that I'm aware of.**[54] (emphasis added).

During the Committee's July 2013 hearing about the IRS's systematic scrutiny of Tea Party applications, Hofacre specifically rejected claims that liberal-oriented groups were part of the IRS backlog. She testified:

Mr. MICA. Okay, the beginning of 2010. And you—this wasn't a targeting by a group of your colleagues in Cincinnati that decided we're going to go after folks. And most of the cases you got, were they "Tea Party" or "Patriot" cases?

Ms. HOFACRE. Sir, they were all "Tea Party" or "Patriot" cases.

Mr. MICA. Were there progressive cases? How were they handled?

Ms. HOFACRE. **Sir, I was on this project until October of 2010, and I was only instructed to work "Tea Party"/ "Patriot"/"9/12" organizations.**[55] (emphasis added)

Ron Bell, who replaced Hofacre in overseeing the growing backlog of applications in Cincinnati, similarly testified during a transcribed interview that he only received Tea Party applications from October 2010 until July 2011. He testified:

---

[54] Transcribed interview of Elizabeth Hofacre, Internal Revenue Serv., in Wash., D.C. (May 31, 2013).
[55] July 18th Hearing, *supra* note 28.

Q Okay. So at this point between October 2010 and July 2011, were all the Tea Party cases going to you?

A Correct.

Q And to your knowledge, during this same time period, was it only Tea Party cases that were being assigned to you or were there other advocacy cases that were part of this group?

***

A Does that include 9/12 and Patriot?

Q Yes, yes.

A Yes.

Q Okay. So it was just those type of cases, not other type of advocacy cases that maybe had a different -- a different political -- a liberal or progressive case?

A Correct.

***

Q Okay. And to your knowledge, when you were first assigned these cases in October 2010 and through July 2011, do you know what criteria the screening unit was using to identify the cases to send to you?

A Yes.

Q And what was that criteria?

A It was solicited on the Emerging Issues tab of the BOLO report.

Q And what did that say? What did that Emerging Issue tab on the BOLO say?

A In July 20 –

Q In October 2010 we'll start.

A I don't know exactly what it said, but it just -- Tea Party cases, 9/12, Patriot.

Q And do you recall how many cases you inherited from Ms. Hofacre?

A 50 to 100.

Q And were those only Tea Party-type cases as well?

A To the best of my knowledge.[56]

## The IRS continued to target Tea Party groups after the BOLO criteria were broadened

From material produced to the Committee, it is apparent that Exempt Organizations Director Lois Lerner began orchestrating in late 2010 a "c4 project that will look at levels of lobbying and pol[itical] activity" of nonprofits, careful that the effort was not a "*per se* political project."[57] Consistent with this goal, Lerner ordered the implementation of new screening criteria for the Tea Party cases in summer 2011, broadening the BOLO language to "advocacy organizations." According to testimony received by the Committee, Lerner ordered the language changed from "Tea Party" because she viewed the term to be "too pejorative."[58] While avoiding *per se* political scrutiny, other documents obtained by the Committee suggest that Lerner's change was merely cosmetic. These documents show that the IRS still intended to target and scrutinize Tea Party applications, despite the facial changes to the BOLO criteria.

An internal "Significant Case Report" summary chart prepared in August 2011 illustrates that Lerner's change was merely cosmetic (figures 3A and 3B). While the name of entry was changed "political advocacy organizations," the description of the issue continued to reference the Tea Party movement.[59] The issue description read: "Whether a tea party organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4)."[60]

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[56] Transcribed interview of Ronald Bell, Internal Revenue Serv., in Wash., D.C. (June 13, 2013).
[57] E-mail from Lois Lerner, Internal Revenue Serv., to Cheryl Chasin et al., Internal Revenue Serv. (Sept. 16, 2010). [IRSR 191030]
[58] Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013).
[59] Internal Revenue Serv., Significant Case Report (Aug. 31, 2011). [IRSR 151653]
[60] *Id.*

**Fig. 3A: IRS Significant Case Report Summary, August 2011**[61]

A. Open SCs:

| | Name of Org/Group | Group #/Manager | EIN | Received | Issue | Tax Law Specialist | Estimated Completion Date | Status/Next action | Being Elevated to TEGE Commissioner This Month |
|---|---|---|---|---|---|---|---|---|---|
| 1. | Political Advocacy Organizations | T2/Ron Shoemaker | [redacted] | 4/2/2010 | Whether a tea party organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4) | Chip Hull & Hilary Goehausen | 3/31/2011 (Orig) 05/31/2011 (Rev) 07/31/2011 (Rev) 10/03/2011 (Rev) 12/31/2011 (Rev) | Developing both a (c)(3) and (c)(4) cases. Proposed (c)(4) favorable is currently being reviewed. Proposed denial currently being reviewed on (c)(3). Cases were discussed with Judy Kindell on 04/06/11. Judy requested staff to get additional information from taxpayers regarding certain activities. Development letters were sent. Proposed favorable (c)(4) ruling forwarded to Chief Counsel for comments on 05/09/11. Information from (c)(3) organization regarding activities due on 05/18/2011.Waiting on taxpayer response . Met with Director EO on June 29, 2011. Met with Counsel on 8/10/11 to discuss the cases; Counsel recommended further development of the cases by getting information on the organizations' 2010 activities. Counsel gave us directions on the type of information needed. [redacted] Next Action: [redacted] | No |

**Fig. 3B: IRS Significant Case Report Summary, August 2011 (enlarged)**[62]

| | Name of Org/Group | Group #/Manager | EIN | Received | Issue |
|---|---|---|---|---|---|
| 1. | Political Advocacy Organizations | T2/Ron Shoemaker | (b)(3) [redacted] (b) | 4/2/2010 | Whether a tea party organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4) |

Likewise, in comparing the individual sensitive case report prepared for the Tea Party cases in June 2011 with the report prepared in September 2012, it is apparent that the BOLO criteria changed was superficial. The reports' issue summaries are nearly identical, except for replacing "Tea Party" with "advocacy organizations."[63] The June 2011 sensitive case report (figure 4A) identified the issue as: "The various 'tea party' organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The 'tea party' organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis."[64]

[61] *Id.*
[62] *Id.*
[63] *Compare* Internal Revenue Serv., Sensitive Case Report (June 17, 2011) [IRSR 151687-88], *with* Internal Revenue Serv., Sensitive Case Report (Sept. 18, 2012). [IRSR 150608-09]
[64] Internal Revenue Serv., Sensitive Case Report (June 17, 2011). [IRSR 151687-88]

**Fig. 4A: IRS Sensitive Case Report for Tea Party cases, June 17, 2011**[65]

| CASE OR ISSUE SUMMARY: |
| --- |
| The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity. |

The September 2012 sensitive case report (figure 4B) identified the issue as: "These organizations are 'advocacy organizations,' and although are separately organized, they appear to be part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are followed closely in national newspapers (such as The Washington Post) almost on a regular basis."[66]

**Fig. 4B: IRS Sensitive Case Report for "Advocacy Organizations," Sept. 18, 2012**[67]

| CASE OR ISSUE SUMMARY: |
| --- |
| These organizations are "advocacy organizations," and although are separately organized, they appear to be part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati has in its inventory a number of applications from these types of organizations that applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations that applied for recognition of exemption under section 501(c)(4) as social welfare organizations. |

Reading these items together, it is clear that although the BOLO language was changed to broader "political advocacy organizations," the IRS still intended to identify and single out Tea Party applications for scrutiny. Ron Bell testified that after the BOLO change in July 2011, he received more applications than just Tea Party cases. He testified:

Q And do you recall when that – when the BOLO was changed after – you said it was after the meeting [with Lerner], they changed the BOLO after the meeting, do you recall when?

A July.

Q Of 2011?

A Yes, sir.

---

[65] *Id.*
[66] Internal Revenue Serv., Sensitive Case Report (Sept. 18, 2012). [IRSR 150608-09]
[67] *Id.*

Q And you were going to say the BOLO became more, and then you were cut off. What were you going to say?

A It became more – they had more the advocacy, more organizations to the advocacy, like I mentioned about maybe a cat rescue that's advocating for let's not kill the cats that get picked up by the local government in whatever cities.[68]

Bell also stated that while he could not process the Tea Party applications because he was awaiting guidance from Washington, he could process the non-Tea Party applications. He testified:

Q Mr. Bell, in July 2011, when the BOLO was changed where they chose broad language, after that point, did you conduct secondary screening on any of the cases that were being held by you?

A You mean the cases that I inherited from Liz are the ones that had already been put into the whatever timeframe, Tea Party advocacy, slash advocacy?

Q Other type, yes.

A No, these were new ones coming in that someone thought that they perhaps should be in the advocacy, slash, Tea Party inventory.

Q Okay.

A They were assigned to Group 7822, and I reviewed them, and you know, maybe some were, but a vast majority was like outside the realm we were looking for.

Q And so they were like the . . . cat type cases you were discussing earlier?

A Yes.

***

Q After the July 2011 change to the BOLO, how long did you perform the secondary screening?

A Up until July 2012.

Q So, for a whole year?

A Yeah.

[68] Transcribed interview of Ronald Bell, Internal Revenue Serv., in Wash., D.C. (June 13, 2013).

Q And you would look at the cases and see if they were not a Tea Party case, you would move that either to closing or to further development?

A Yeah, and then the BOLO changed about midway through that timeframe.

Q Okay.

A To make it where we put the note on there that we don't need the general advocacy.

Q And after the BOLO changed in January 2012, did that affect your secondary screening process?

A There was less cases to be reviewed.

Q Okay. **So during this whole year, the Tea Party cases remained on hold pending guidance from Washington while the other cases that you identified as non-Tea Party cases were moved to either closure or further development; is that right?**

A **Correct.**[69] (emphasis added).

## The IRS's own retrospective review shows the targeted applications were predominantly conservative-oriented

In July 2012, Lerner asked her senior technical advisor, Judith Kindell, to conduct an assessment of the political affiliation of the applications in the IRS backlog. On July 18, Kindell reported back to Lerner that of all the 501(c)(4) applications, having been flagged for additional scrutiny, at least 75 percent were conservative, "while fewer than 10 [applications, or 5 percent] appear to be liberal/progressive leaning groups based solely on the name."[70] Of the 501(c)(3) applications, Kindell informed Lerner that "slightly over half appear to be conservative leaning groups based solely on the name."[71] Unlike Tea Party cases, the Oversight Committee's review has received no testimony from IRS employees that any progressive groups were scrutinized because of their organization's expressed political beliefs.

[69] *Id.*
[70] E-mail from Judith Kindell, Internal Revenue Serv., to Lois Lerner, Internal Revenue Serv. (July 18, 2012). [IRSR 179406]
[71] *Id.*

**Fig. 5: E-mail from Judith Kindell to Lois Lerner, July 18, 2012**[72]

| | |
|---|---|
| **From:** | Kindell Judith E |
| **Sent:** | Wednesday, July 18, 2012 10:54 AM |
| **To:** | Lerner Lois G |
| **Cc:** | Light Sharon P |
| **Subject:** | Bucketed cases |

Of the 84 (c)(3)

cases, slightly over half appear to be conservative leaning groups based solely

on the name. The remainder do not obviously lean to either side of the

political spectrum.

Of the 199 (c)(4)

cases, approximately 3/4 appear to be conservative leaning while fewer than 10

appear to be liberal/progressive leaning groups based solely on the name.

The remainder do not obviously lean to either side of the political

spectrum.

Documents and testimony obtained by the Committee demonstrate that the IRS sought to identify and scrutinize Tea Party applications. For fifteen months beginning in February 2010, the IRS systematically identified, separated, and delayed Tea Party applications – and only Tea Party applications. Even after the IRS broadened the screening criteria in the summer of 2011, internal documents confirm that that agency continued to target Tea Party groups.

## *The IRS treated Tea Party applications differently from other applications*

Evidence obtained by the Committee in the course of its investigation proves that the IRS handled conservative applications distinctly from other tax-exempt applications. In February 2011, Lerner directed Michael Seto, the manager of Exempt Organizations Technical Unit, to put the Tea Party test cases through a "multi-tier" review.[73] Lerner wrote to Seto: "This could be the vehicle to go to court on the issue of whether Citizen's [*sic*] United overturning ban on corporate

[72] *Id.*
[73] Transcribed interview of Michael Seto, Internal Revenue Serv., in Wash., D.C. (July 11, 2013).

spending applies to tax exempt rule. Counsel and Judy Kindell need to be in on this one please."[74]

Carter Hull, an IRS specialist with almost 50 years of experience, testified that this multi-tier level of review was unusual. He testified:

Q Have you ever sent a case to Ms. Kindell before?

A Not to my knowledge.

Q This is the only case you remember?

A Uh-huh.

Q Correct?

A This is the only case I remember sending directly to Judy.

***

Q Had you ever sent a case to the Chief Counsel's office before?

A I can't recall offhand.

Q You can't recall. So in your 48 years of experience with the IRS, you don't recall sending a case to Ms. Kindell or a case to IRS Chief Counsel's office?

A To Ms. Kindell, I don't recall ever sending a case before. To Chief Counsel, I am sure some cases went up there, but I can't give you those.

Q Sitting here today you don't remember?

A I don't remember.[75]

Similarly, Elizabeth Hofacre, the Cincinnati-based revenue agent initially assigned to develop cases, told the Committee during a July 2013 hearing that the involvement of Washington was "unusual."[76] She testified:

I never before had to send development letters that I had drafted to EO

[74] E-mail from Lois Lerner, Internal Revenue Serv., to Michael Seto, Internal Revenue Serv. (Feb. 1, 2011). [IRSR 161810]
[75] Transcribed interview of Carter Hull, Internal Revenue Serv., in Wash., D.C. (June 14, 2013).
[76] *"The IRS's Systematic Delay and Scrutiny of Tea Party Applications": Hearing before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (2013) (statement of Elizabeth Hofacre).

Technical for review, and I never before had to send copies of applications and responses that were assigned to me to EO Technical for review. I was frustrated because of what I perceived as micromanagement with respect to these applications.[77]

Hofacre's successor on the cases, Ron Bell, also told the Committee that it was "unusual" to have to wait on Washington to move forward with an application.[78] He testified:

Q So did you see something different in these Tea Party cases applying for 501(c)(4) status that was different from other organizations that had political activity, political engagement applying for 501(c)(4) status in the past?

A I'm not sure if I understand that.

Q I guess what I'm getting at is you said you had seen previous applications from an organization applying for 501(c)(4) status that had some level of political engagement, and these Tea Party groups are also applying for 501(c)(4) status and they have some level of political engagement. Was there any difference in your mind between the Tea Party groups and the other groups that you'd seen in your experience at the IRS?

A No.

Q So, do you think that Tea Party groups are treated the same as these other groups from your previous experience?

A No.

***

Q In your experience, was there anything different about the way that the Tea Party 501(c)(4) cases were treated that was as opposed to the previous 501(c)(4) applications that had some level of political engagement?

A Yes.

Q And what was different?

A Well, they were segregated. They seemed to have been more scrutinized. I hadn't interacted with EO technical [in] Washington on cases really before.

Q You had not?

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[77] *Id.*

[78] Transcribed interview of Ronald Bell, Internal Revenue Serv., in Wash., D.C. (June 13, 2013).

A Well, not a whole group of cases.[79]

Another Cincinnati employee, Stephen Seok, testified that the type of activities that the conservative applicants conducted made them different from other similar applications he had worked in the past. He testified:

Q And to your knowledge, the cases that you worked on, was there anything different or novel about the activities of the Tea Party cases compared to other (c)(4) cases you had seen before?

***

A **Normal (c)(4) cases we must develop the concept of social welfare, such as the community newspapers, or the poor, that types. These organizations mostly concentrate on their activities on the limiting government, limiting government role, or reducing government size, or paying less tax. I think it[']s different from the other social welfare organizations which are (c)(4).**

***

Q **So the difference between the applications that you just described, the applications for folks that wanted to limit government, limit the role of government, the difference between those applications and the (c)(4) applications with political activity that you had worked in the past, was the nature of their ideology, or perspective, is that right?**

A **Yeah, I think that's a fair statement**. But still, previously, I could work, I could work this type of organization, applied as a (c)(4), that's possible, though. Not exactly Tea Party, or 9-12, but dealing with the political ideology, that's possible, yes.

Q **So you may have in the past worked on applications from (c)(4), applicants seeking (c)(4) status that expressed a concern in ideology, but those applications were not treated or processed the same way that the Tea Party cases that we have been talking about today were processed, is that right?**

A **Right**. Because that [was] way before these – these organizations were put together. So that's way before. If I worked those cases, way before this list is on.[80] (emphases added).

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[79] *Id.*

[80] Transcribed interview of Stephen Daejin Seok, Internal Revenue Serv., in Wash., D.C. (June 19, 2013).

This evidence shows that the IRS treated conservative-oriented Tea Party applications differently from other tax-exempt applications, including those filed by liberal-oriented organizations. Testimony indicates that the IRS instituted new procedures and different hurdles for the review of Tea Party applications. What would otherwise be a routine review of an application became unprecedented scrutiny and delays for these Tea Party groups.

## Myth versus fact: How Democrats' claims of bipartisan targeting are not supported by the evidence

In light of the evidence available to the Committee and under close examination, each Democratic argument fails. Despite their claims that liberal-leaning groups were targeted in the same manner as conservative applicants, the facts do not bear out their assertions. Instead, the Committee's investigation and public information shows the following:

- IRS BOLO entries for liberal groups and terms only appear on lists used for awareness and were never used as a litmus test for enhanced scrutiny;
- Some liberal-oriented organizations were identified for scrutiny because of objective, non-political concerns, but not because of their political beliefs;
- Substantially more conservative-leaning applicants than liberal-oriented applicants were caught in the IRS's backlog;
- The IRS treated Tea Party applicants differently from "progressive" groups;
- The IRS treated Tea Party applicants differently from ACORN successor groups;
- The IRS treated Tea Party applicants differently from Emerge affiliate groups; and
- The IRS treated Tea Party applicants differently from Occupy groups.

When carefully examined, these facts refute the myths perpetrated by congressional Democrats and the Administration that the IRS engaged in bipartisan targeting. The facts show, instead, that the IRS targeted Tea Party groups for systematic scrutiny and delay.

Perhaps most telling is the IRS's own actions. When Lois Lerner publicly apologized for the IRS's targeting of Tea Party applicants, she offered no such apology for its targeting of any liberal groups. When asked if the IRS had treated liberal groups inappropriately, Lerner responded: "I don't have any information on that."[81] This admission severely undercuts Democratic *ex post* allegations of bipartisan targeting.

### *BOLO entries for liberal groups and terms only appear on lists used for awareness and were never used as a litmus test for enhanced scrutiny*

Congressional Democrats and some in the Administration claim that the IRS targeted liberal groups because some liberal-oriented organizations appeared on entries of the IRS BOLO

[81] Aaron Blake, *'I'm not good at math': The IRS's public relations disaster*, WASH. POST, May 10, 2013.

lists.[82] This claim is not supported by the facts. The presence of an organization or a group of organizations on the IRS BOLO list did not necessarily mean that the IRS targeted those groups. As the Ways and Means Committee phrased it, "being on a BOLO is different from being targeted and abused by the IRS."[83] A careful examination of the evidence demonstrates that only conservative groups on the IRS BOLO lists experienced systematic scrutiny and delay.

The Democratic falsehood rests on a fundamental misunderstanding of the structure of the BOLO list. The BOLO list was a comprehensive spreadsheet document with separate tabs designed for information intended for different uses. For example, the "Watch List" tab on the BOLO document was designed to notify screeners of potential applications that the IRS has not yet received.[84] The "TAG Issues" tab listed groups with potentially fraudulent applications. The "Emerging Issues" tab, contrarily, was designed to alert screeners to groups of applications that the IRS has *already received* and that presented special problems.[85] Therefore, whereas the Watch List tab noted hypothetical applications that could be received and TAG Issues tab noted fraudulent applications, the Emerging Issues tab highlighted non-fraudulent applications that the IRS was actively processing.

The Tea Party entry on the IRS BOLO appears on the "Emerging Issues" tab, meaning that the IRS had already received Tea Party applications. The liberal-oriented groups on the BOLO list appear on either the Watch List tab, meaning that the IRS was merely notifying its screeners of the potential for those groups to apply, or the TAG Issues tab, indicating a concern for fraud. In effect, then, whereas the appearance of Tea Party groups on the BOLO signifies the *actuality* of review and subsequent delay, the appearance of the liberal groups on the BOLO signifies either the *possibility* that some group may apply in the future or the potential for fraud in a group's application.

The differences in where the entries appear on the BOLO document manifests in the IRS's differential treatment of the groups. According to evidence known to the Committee, only Tea Party applications appearing on the Emerging Issues tab resulted in systematic scrutiny and delay. Although some liberal groups appeared on versions of the BOLO, their mere presence on the document did not result in systematic scrutiny and delay – contrary to Democratic claims of bipartisan IRS targeting.

## *The IRS identified some liberal-oriented groups due to objective, non-political concerns, but not because of their political beliefs*

Where the IRS identified liberal-oriented groups for scrutiny, evidence shows that it did so for objective, non-political reasons and not because of the groups' political beliefs. For

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[82] *See, e.g., Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013); The White House, Press Briefing by Press Secretary Jay Carney, 2/3/14, http://www.whitehouse.gov/photos-and-video/video/2014/02/03/press-briefing#transcript.
[83] H. Comm. on Ways & Means, Being on a BOLO is Different from Being Targeted and Abused by the IRS (June 24, 2013), http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=340314.
[84] Internal Revenue Serv., Heightened Awareness Issues. [IRSR 6655-72]
[85] *Id.*

instance, the IRS scrutinized Emerge America applications for conveying impermissible benefits to a private entity, which is prohibited for nonprofit groups.[86] The IRS scrutinized ACORN successor groups due to concerns that the organizations were engaged in an abusive scheme to rebrand themselves under a new name.[87] Likewise, the IRS included an entry for "progressive" on its BOLO list out of concern that the groups' partisan campaign activity "may not be appropriate" for 501(c)(3) status, under which there is an absolute prohibition on campaign intervention.[88] Unlike the Tea Party applications, which the IRS scrutinized for their social-welfare activities, the Committee has received no indication that the IRS systematically scrutinized liberal-oriented groups because of their political beliefs.

## *Substantially more conservative groups were caught in the IRS application backlog*

Another familiar refrain from the Administration and congressional Democrats is that the IRS targeted liberal groups because left-wing groups were included in the IRS backlog along with conservative groups. Ways and Means Ranking Member Sander Levin (D-MI) alleged that the IRS engaged in bipartisan targeting because some "progressive groups were among the 298 applications that TIGTA reviewed in their audit and received heightened scrutiny."[89] Similarly, Representative Gerry Connolly (D-VA) said that "the tilt . . . included progressive titles as well as conservative titles and that they were equally stringent."[90] These allegations are misleading. Several separate assessments of the IRS backlog prove that substantially more conservative groups than liberal groups were caught in the IRS backlog.

An internal IRS analysis conducted for Lois Lerner in July 2012 found that 75 percent of the 501(c)(4) applications in the backlog were conservative, "while fewer than 10 [applications] appear to be liberal/progressive leaning groups based solely on the name."[91] The same analysis found that "slightly over half [of the 501(c)(3) applications] appear to be conservative leaning groups based solely on the name."[92] A Ways and Means examination conducted in 2013 similar found that the backlog was overwhelmingly conservative: 83 percent conservative and only 10 percent liberal.[93]

In September 2013, *USA Today* independently analyzed a list of about 160 applications in the IRS backlog.[94] This review showed that conservative groups filed 80 percent of the

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[86] Transcribed interview of Amy Franklin Giuliano, Internal Revenue Serv., in Wash., D.C. (Aug. 9, 2013).
[87] Transcribed interview of Robert Choi, Internal Revenue Serv., in Wash., D.C. (Aug. 21, 2013).
[88] *See, e .g.*, Internal Revenue Serv., Be on the Look Out List (Nov. 9, 2010). [IRS 1349-64]
[89] *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013) (statement of Ranking Member Sander Levin).
[90] *The Last Word with Lawrence O'Donnell* (MSNBC television broadcast Mar. 5, 2014) (interview with Representative Gerry Connolly).
[91] E-mail from Judith Kindell, Internal Revenue Serv., to Lois Lerner, Internal Revenue Serv. (July 18, 2012). [IRSR 179406]
[92] *Id.*
[93] Ways and Means Committee September 18th Hearing, *supra* note 9.
[94] *See* Gregory Korte, *IRS List Reveals Concerns over Tea Party 'Propaganda,'* USA TODAY, Sept. 18, 2013.

applications in the backlog while liberal groups filed less than seven percent.[95] An earlier analysis from *USA Today* in May 2013 showed that for 27 months beginning in February 2010, the IRS did not approve any tax-exempt applications filed by Tea Party groups.[96] During that same period, the IRS approved "perhaps dozens of applications from similar liberal and progressive groups."[97]

Testimony received by the Committee supports this conclusion. During a hearing of the Subcommittee on Economic Growth, Job Creation, and Regulatory Affairs, Jay Sekulow – a lawyer representing 41 groups targeted by the IRS – testified that substantially more conservative groups were targeted and that all liberal groups targeted eventually received approval.[98] In an exchange with Representative Matt Cartwright (D-PA), Sekulow testified:

Mr. CARTWRIGHT. And Mr. Sekulow, you were helpful with some statistics this morning, and I wanted to ask you about that. **You mentioned 104 conservative groups targeted. Was that the number?**

Mr. SEKULOW. This is from the report of the IRS dated through July 29th of 2013 – **104 conservative organizations in that report were targeted**.

Mr. CARTWRIGHT. Thank you. **And then seven progressive targeted groups**?

Mr. SEKULOW. **Seven progressive targeted groups, all of which received their tax exemption**.

Mr. CARTWRIGHT. Does it give the total number of applications? In other words, 104 conservative groups targeted. How many – how many applied? How many conservative groups applied?

Mr. SEKULOW. In the TIGTA report there was – I think the number was 283 that they had become part of the target. But actually, applications, a lot of the IRS justification for this, at least purportedly, was an increase in applications, and there was actually a decrease in the number.

Mr. CARTWRIGHT. Right. And does it give the number of progressive groups that applied for tax-exempt status?

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[95] *Id.*
[96] Gregory Korte, *IRS Approved Liberal Groups while Tea Party in Limbo*, USA TODAY, May 15, 2013.
[97] *Id.*
[98] *"The IRS Targeting Investigation: What Is the Administration Doing?": Hearing before the Subcomm. on Economic Growth, Job Creation, and Regulatory Affairs of the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (2014) (question and answer with Rep. Matt Cartwright).

Mr. SEKULOW. No, the only report that has the progressive –

Mr. CARTWRIGHT. No, no?

Mr. SEKULOW. The one that I have just is the – the report I have in front of me is the one through the – which just has the seven.

Mr. CARTWRIGHT. OK. All right, thank you.

MR. SEKULOW. None of those have been denied, though.[99] (emphases added).

Contrary to the Democratic claim that the IRS targeting of liberal groups was "equally stringent" to conservative groups,[100] the overwhelming majority of applications in the IRS backlog were filed by conservative-leaning organizations. This evidence further demonstrates that the IRS did not engage in bipartisan targeting.

## *The IRS treated Tea Party applicants differently than "progressive" groups*

Democrats in Congress and the Administration argue that the IRS treated "progressive" groups in a manner similar to Tea Party applicants. Because the IRS BOLO list had an entry for "progressives," Democrats allege that "progressive groups were singled out for scrutiny in the same manner as conservative groups,"[101] and that "the progressive groups were targeted side by side with their tea party counterpart groups."[102] Again, the evidence available to the Committee does not support these Democratic assertions. Rather, the evidence clearly shows that the IRS did not subject "progressive" groups to the same type of systematic scrutiny and delay as conservative applicants.

Perhaps the most significant difference between the IRS's treatment of Tea Party applicants and "progressive" groups is reflected in the IRS BOLO lists. The Tea Party entry was located on the tab labeled, "Emerging Issues," meaning that the IRS was actively screening for similar cases.[103] The "progressive" entry, however, was located on a tab labeled "TAG historical," meaning that the IRS interest in those cases was dormant.[104] Cindy Thomas, the manager of the IRS Cincinnati office, explained this difference during a transcribed interview with Committee staff.[105] She told the Committee that unlike the systematic scrutiny given to the

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[99] *Id.*
[100] *The Last Word with Lawrence O'Donnell* (MSNBC television broadcast Mar. 5, 2014) (interview with Representative Gerry Connolly).
[101] Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov't Reform Democrats, New Documents Highlight IRS Scrutiny of Progressive Groups (Aug. 20, 2013).
[102] *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013) (question and answer with Representative Joseph Crowley).
[103] *See* Internal Revenue Serv., Heightened Awareness Issues. [IRSR 6655-72]
[104] *Id.*
[105] Transcribed interview of Lucinda Thomas, Internal Revenue Serv., in Wash., D.C. (June 28, 2013).

conservative-oriented applications as a result of the BOLO, "progressive" cases were never automatically elevated to the Washington office as a whole. She testified:

Q Ms. Thomas, is this an example of the BOLO from looks like November 2010?

A I don't know if it was from November of 2010, but –

Q This is an example of the BOLO, though?

A Yes.

Q Okay. And, ma'am, under what has been labeled as tab 2, TAG Historical?

A Yes.

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Q Let's turn to page 1354.

A Okay.

Q Do you see that, it says -- the entry says progressive?

A Yes.

Q This is under TAG Historical, is that right?

A Yes.

Q So this is an issue that hadn't come up for a while, is that right?

A Right.

Q And it doesn't note that these were referred anywhere, is that correct? What happened with these cases?

A This would have been on our group as – because of – remember I was saying it was consistency-type cases, so it's not necessarily a potential fraud or abuse or terrorist issue, but any cases that were dealing with these types of issues would have been worked by our TAG group.

Q **Okay. And were they worked any different from any other cases that EO Determinations had?**

A **No. They would have just been worked consistently by one group of agents.**

Q Okay. And were they cases sent to Washington?

A I'm not – I don't know.

Q Not that you are aware?

A I'm not aware of that.

Q As the head of the Cincinnati office you were never aware that these cases were sent to Washington?

A There could be cases that are transferred to the Washington office according to, like, our [Internal Revenue Manual] section. I mean, there's a lot of cases that are processed, and I don't know what happens to every one of them.

Q Sure. But these cases identified as progressive as a whole were never sent to Washington?

A Not as a whole.[106]

The difference in where the entries appeared in the BOLO list resulted in disparate treatment of Tea Party and "progressive" groups. Unlike the systematic scrutiny given to Tea Party applicants, "progressive" cases were never similarly scrutinized.

The House Ways and Means Committee, with statutory authority to review confidential taxpayer information, concluded that the IRS treated conservative tax-exempt applicants differently than "progressive" groups. The Ways and Means Committee's review found that while the IRS approved only 45 percent of conservative applicants, it approved 100 percent of groups with "progressive" in their name.[107] Likewise, Acting IRS Commissioner Daniel Werfel testified before the Way and Means Committee:

Mr. REICHERT. Mr. Werfel, isn't it true that 100 percent of tea party applications were flagged for extra scrutiny?

Mr. WERFEL. I think that – yes. The framework from the BOLO. It's my understanding, the way the process worked is if there's "tea party" in the application it was automatically moved into -- into this area of further review, yes.

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[106] *Id.*

[107] *Hearing on the Internal Revenue Service's Exempt Organizations Division Post-TIGTA Audit: Hearing before the Subcomm. on Oversight of the H. Comm. on Ways & Means*, 113th Con. (2013) (opening statement of Chairman Boustany).

Mr. REICHERT. OK, and you – you know how many progressive groups were flagged?

Mr. WERFEL. I do not have that number.

Mr. REICHERT. I do.

Mr. WERFEL. OK.

Mr. REICHERT. Our investigation shows that there were seven flagged. Do you know how many were approved?

Mr. WERFEL. I do not have that number at my fingertips.

Mr. REICHERT. All of those applications were approved.[108]

The IRS's independent inspector general has repeatedly confirmed the Ways and Means Committee's assessment. During the Oversight Committee's July 2013 hearing, TIGTA J. Russell George told Members that "progressive" groups were not subjected to the same systematic treatment as Tea Party applicants. He testified:

> With respect to the 298 cases that the IRS selected for political review, as of the end of May 2012, three have the word "progressive" in the organization's name; another four were used—are used, "progress," none of the 298 cases selected by the IRS, as of May 2012, used the name "Occupy."[109]

Mr. George also informed Congress that at least 14 organizations with "progressive" in their name were not held up and scrutinized by the IRS.[110] "In total," Mr. George wrote, "**30 percent of the organizations we identified with the words 'progress' or 'progressive' in their names were process as potential political cases. In comparison, our audit found that 100 percent of the tax-exempt applications with Tea Party, Patriots, or 9/12 in their names were processed as potential political cases** during the timeframe of our audit."[111] (emphasis added).

Documents produced by the IRS support the finding of disparate treatment toward Tea Party groups. Notes from one training session in July 2010 reflect that the IRS ordered screeners to transfer Tea Party applications to a special group for "secondary screening."[112] The same notes show that the screeners were asked to "flag" progressive groups.[113] But multiple

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[108] *Hearing on the Status of IRS Review of Taxpayer Targeting Practices: Hearing before the H. Comm. on Ways & Means*, 113th Cong. (2013) (question and answer with Representative Dave Reichert).
[109] *"The IRS's Systematic Delay and Scrutiny of Tea Party Applications": Hearing before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (2013) (statement of J. Russell George).
[110] Letter from J. Russell George, Treasury Inspector Gen. for Tax Admin., to Sander M. Levin, H. Comm. on Ways & Means (June 26, 2013).
[111] *Id.*
[112] Internal Revenue Serv., Screening Workshop Notes (July 28, 2010). [IRSR 6703-04]
[113] *Id.*

interviews with IRS employees who worked individual cases have yielded no evidence that these "flags" or frontline reviews for political activity led to enhanced scrutiny – except for Tea Party organizations. One sentence on the notes explicitly reminds screeners that "progressive' applications are not considered "Tea Parties.'"[114] These notes confirm testimony from Elizabeth Hofacre, the "Tea Party Coordinator/Reviewer," who told the Committee that she only worked Tea Party cases.[115]

**Fig. 6: IRS Screening Workshop Notes, July 28, 2010**[116]

**Screening Workshop Notes - July 28, 2010** 2

- The emailed attachment outlines the overall process.
- Glenn deferred additional statements and/or questions to John Shafer on yesterday's developments; how they affect the screening process and timeline.
- Concerns can be directed to Glenn for additional research if necessary.

**Current/Political Activities:** Gary Muthert

- Discussion focused on the political activities of Tea Parties and the like-regardless of the type of application.
- If in doubt Err on the Side of Caution and transfer to 7822.
- Indicated the following names and/or titles were of interest and should be flagged for review:
  - 9/12 Project,
  - Emerge,
  - Progressive
  - We The People,
  - Rally Patriots, and
  - Pink-Slip Program.

- Elizabeth Hofacre, Tea Party Coordinator/Reviewer
  - Re-empathize that applications with Key Names and/or Subjects should be transferred to 7822 for Secondary Screening. Activities must be primary.
  - "Progressive" applications are not considered "Tea Parties"

Despite creative interpretations of this individual document, the full evidence rebuts the Democratic claim that the IRS targeted "progressive" groups alongside Tea Party applicants. Although "progressive" groups were referenced in the IRS BOLO lists and internal training documents, Democrats in Congress and the Administration have repeatedly ignored critical distinctions that qualify their meaning. A careful evaluation of facts in context reveals one conclusion: the IRS treated Tea Party groups differently than "progressive" groups.

[114] *Id.*
[115] Transcribed interview of Elizabeth Hofacre, Internal Revenue Serv., in Wash., D.C. (May 31, 2013).
[116] Internal Revenue Serv., Screening Workshop Notes (July 28, 2010). [IRSR 6703-04]

## *The IRS treated Tea Party applicants differently than ACORN successor groups*

Democratic defenders of the IRS misconduct also argue that the IRS treated Tea Party applicants similar to ACORN successor groups. ACORN endorsed President Barack Obama in his election campaign and had established deep political ties before its network of affiliates delinked and rebranded themselves following scandalous revelations about the organization in 2009.[117] To support allegations about ACORN being targeted, Democrats have pointed to BOLO lists and training documents that "instructed [IRS] screeners to single out for heightened scrutiny . . . ACORN successors."[118]

But allegations of targeting fall flat. First, ACORN successor groups appear on the "Watch List" tab of the BOLO list, unlike Tea Party groups, which appear on the "Emerging Issues" tab.[119] According to IRS documents, the Watch List tab was intended to include applications "not yet received," or "issues [that] are the result of significant world events," or "organizations formed as a result of controversy."[120] The Emerging Issue tab was created to spot groups of applications *already* received by the IRS. An internal IRS training document specifically cites "Tea Party cases" as an example of an emerging issue; it does not similarly cite ACORN successor groups.

Second, Robert Choi, the director of EO Rulings and Agreements until December 2010, testified to several differences between how the IRS treated ACORN successors and how the IRS treated Tea Party applicants. He told the Committee that unlike the Tea Party "test" cases, he did not recall the ACORN successor applications being subject to a "sensitive case report" or worked by the IRS Chief Counsel's office.[121] Most importantly, he explained that the IRS had objective concerns about rebranded ACORN affiliates that had nothing to do with the organization's political views. The primary concern about the ACORN successor groups, according to Choi, was whether the groups were legitimate new entities or part of an "abusive" scheme to continue an old entity under a new name.[122] Mr. Choi testified:

Q You said earlier in the last hour there was email traffic about the ACORN successor groups in 2010; is that right?

A That's correct, yes.

Q But the ACORN successor groups were not subject to a sensitive case report; is that right?

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[117] Stephanie Strom, *On Obama, Acorn and Voter Registration*, N.Y. TIMES, Oct. 10, 2008; Stanley Kurtz, *Inside Obama's Acorn*, NAT'L REVIEW ONLINE, May 29, 2008.
[118] Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov't Reform Democrats, New Documents Highlight IRS Scrutiny of Progressive Groups (Aug. 20, 2013).
[119] *See* Internal Revenue Serv., Be on the Look Out list, "Filed 112310 Tab 5 – Watch List." [IRSR 2562-63]
[120] Internal Revenue Serv., Heightened Awareness Issues. [IRSR 6655-72]
[121] Transcribed interview of Robert Choi, Internal Revenue Serv., in Wash., D.C. (Aug. 21, 2013).
[122] *Id.*

A I don't recall if they were listed in there, in the sensitive case report.

Q So you don't recall them being part of a sensitive case report?

A I think what I'm saying is they may be part of a sensitive case report. I do not have a specific recollection that they were listed in a sensitive case report.

Q But you do have a specific recollection that the Tea Party cases were on sensitive case reports in 2010.

A Yes.

Q To your knowledge, did any ACORN successor application go to the Chief Counsel's Office?

A I am not aware of it.

Q Are you aware of any ACORN successor groups facing application delays?

A I do not know if – well, when you say "delays," how do you –

Q Well –

A I mean, I'm aware of successor ACORN applications coming in, and I am aware of email traffic that talked about my concern of delays on those cases and, you know, that there was discussion about seeing an influx of these applications which appear to be related to the previous organization.

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Q And the concern behind the reason that they weren't being processed was that they were potentially the same organization that had been denied previously?

A Not that they were denied previously. **These appeared to be successor organizations, meaning these were newly formed organizations with a new EIN, employer identification number, located at the same address as the previous organization and, in some instances, with the same officers. And it was an issue of concern as to whether or not these were, in fact, the same organizations just coming in under a new name**; whether, in fact, the previous organizations, if they were, for example, 501(c)(3) organizations, properly disposed of their assets. Did they transfer it to this new organization? Was this perhaps an abusive

scheme by these organizations to say that they went out of business and then not really but they just carried on under a different name?

Q And that's the reason they were held up?

A Yes.[123] (emphasis added).

Choi's testimony shows that the inclusion of ACRON successor groups on the BOLO list centered on a concern for whether the new groups were improperly standing in the shoes of the old groups. As the Committee has documented previously, ACORN groups received substantial attention in 2009 and 2010 for misuse of taxpayer funds and other fraudulent endeavors.[124] In fact, Congress even cut off funding for ACORN groups given widespread concerns about the groups' activities.[125] Six Democratic current members of the Oversight Committee and seven Democratic current members of the Ways and Means Committee voted to stop ACORN funding.[126] The IRS included ACORN successor groups on a special watch list, according to Choi, due to concern "as to whether or not these were, in fact, the same organizations just coming in under a new name."[127]

This information undercuts allegations by congressional Democrats that the IRS's placement of ACORN successor groups on the BOLO list signified that those groups were targeted by the IRS in the same manner as Tea Party cases. Unlike the Tea Party applicants, ACORN successor groups were placed on the IRS BOLO out of specific and unique concern for potentially fraudulent or abusive schemes and not because of their political beliefs. Once identified, even ACORN successor groups were apparently not subjected to the same systematic scrutiny and delay as Tea Party applicants.

## *The IRS treated Tea Party applicants differently than Emerge affiliate groups*

Congressional Democrats attempt to minimize the IRS's targeting of Tea Party applicants by alleging a false analogy to the IRS's treatment of Emerge affiliate groups. Emerge touts itself as the "premier training program for Democratic women" and states as a goal, "to increase the number of Democratic women in public office."[128] In particular, citing IRS training documents, Ranking Member Sander Levin and Ranking Member Elijah Cummings argued that "the IRS

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[123] *Id.*

[124] *See* H. COMM. ON OVERSIGHT & GOV'T REFORM MINORITY STAFF, IS ACORN INTENTIONALLY STRUCTURED AS A CRIMINAL ENTERPRISE? (July 23, 2009).

[125] *See* H. COMM. ON OVERSIGHT & GOV'T REFORM MINORITY STAFF, FOLLOW THE MONEY: ACORN, SEIU AND THEIR POLITICAL ALLIES (Feb. 18, 2010).

[126] *See* 155 Cong. Rec. H9700-01 (Sept. 17, 2009). The Democratic Members who opposed ACORN funding were Representatives Maloney (D-NY); Tierney (D-MA); Clay (D-MO); Cooper (D-TN); Speier (D-CA); Welch (D-VT); Levin (D-MI); Doggett (D-TX); Thompson (D-CA); Larson (D-CT); Blumenauer (D-OR); Kind (D-WI); and Schwartz (D-PA). *Id.*

[127] Transcribed interview of Robert Choi, Internal Revenue Serv., in Wash., D.C. (Aug. 21, 2013).

[128] Emerge America, www.emergeamerica.org (last visited Apr. 2, 2014).

instructed its screeners to single out for heightened scrutiny 'Emerge' organizations."[129] The evidence, once more, fails to support their contention. The IRS did not target Emerge affiliate groups in any similar manner to Tea Party applicants.

The same training documents cited by congressional Democrats as proof of bipartisan IRS targeting clearly show differences between the treatment of Tea Party applications and those filed by Emerge affiliate. The IRS ordered its screeners to transfer Tea Party applications to a special group for "secondary screening," but it asked the screeners to merely "flag" Emerge groups.[130] While another training document specifically offers the Tea Party as an example of an emerging issue, the Emerge affiliate groups were not referenced on the document.[131]

Democrats cite testimony from IRS employee Steven Grodnitzky to support their argument that the IRS engaged in bipartisan targeting. Ranking Member Cummings referenced this testimony when questioning Acting IRS Commissioner Daniel Werfel during his unsolicited testimony before the Committee on July 17, 2013.[132] Although Grodnitzky did testify that some liberal applications experienced a three-year delay,[133] he also gave testimony that contradicts the Democrats' manufactured narrative. Grodnitzky testified that unlike the Tea Party cases, which were filed by unaffiliated groups with similar ideologies, the Emerge cases were affiliated entities with different "posts" in each state.[134] He also testified that unlike the Tea Party applications, where the IRS was focused on political speech, the central issue in the Emerge applications was that the groups were conveying an impermissible private benefit upon the Democratic Party.[135] Finally, Grodnitzky testified that there were far fewer Emerge cases than Tea Party applications.[136] While Grodnitzky's testimony supports a conclusion that specific and objective concerns at the IRS led to scrutiny and delayed applications from Emerge affiliates, it does not support a parallel between these organizations and what the IRS did to Tea Party applicants.

Emerge existed as a series of affiliated organizations. One IRS employee testified that whereas the Tea Party applicants waited years for IRS action, some of the Emerge applications were approved by Cincinnati IRS employees in a "matter of hours."[137] But the IRS eventually reversed course, out of concern about impermissible private benefit. Because Emerge affiliates were seen as essentially the same organization, the IRS wanted to flag new affiliates to ensure that these new applications were considered in a consistent manner. Testimony from IRS employee, Amy Franklin Giuliano, explains why the Emerge applicants "were essentially the same organization."[138] She testified:

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[129] Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov't Reform Democrats, New Documents Highlight IRS Scrutiny of Progressive Groups (Aug. 20, 2013).
[130] Internal Revenue Serv., Screening Workshop Notes (July 28, 2010). [IRSR 6703-04]
[131] Internal Revenue Serv., Heightened Awareness Issues. [IRSR 6655-72]
[132] *See* July 17th Hearing, *supra* note 25.
[133] Transcribed interview of Steven Grodnitzky, Internal Revenue Serv., in Wash., D.C. (July 16, 2013).
[134] *Id.*
[135] *Id.*
[136] *Id.*
[137] Transcribed interview of Amy Franklin Giuliano, Internal Revenue Serv., in Wash., D.C. (Aug. 9, 2013).
[138] Transcribed interview of Amy Franklin Giuliano, Internal Revenue Serv., in Wash., D.C. (Aug. 9, 2013).

Q The reason that the other five cases would be revoked if that case the Counsel's Office had was denied, was that because they were affiliated entities?

A It is because they were essentially the same organization. I mean, every – the applications all presented basically identical facts and basically identical activities.

Q And the groups themselves were affiliated.

A And the groups themselves were affiliated, yes.[139]

Giuliano also told the Committee that the central issue in these cases was not impermissible political speech activity – as it was with the Tea Party applications – but instead private benefit. She testified:

Q The issue in the case you reviewed in May of 2010 was private benefit.

A Yes.

Q As opposed to campaign intervention.

A We considered whether political campaign intervention would apply, and we decided it did not.[140]

Most striking, Giuliano told the Committee that the career IRS experts recommended *denying* an Emerge application, whereas the experts recommended *approving* the Tea Party application.[141] Even then, despite the recommended approval, the Tea Party applications still sat unprocessed in the IRS backlog.

Documents and testimony received by the Committee demonstrate that the IRS never engaged in systematic targeting of Emerge applicants as it did with Tea Party groups. IRS scrutiny of Emerge affiliates appears to have been based on objective and non-controversial concerns about impermissible private benefit. Taken together, this evidence strongly rebuts any Democratic claims that the IRS treated Emerge affiliates similarly to Tea Party applicants.

## *The IRS treated Tea Party applicants differently than Occupy groups*

Finally, congressional Democrats defend the IRS targeting of Tea Party organization by arguing that liberal-oriented Occupy groups were similarly targeted.[142] Contrary to these claims, evidence available to the Committee indicates that the IRS did not target Occupy groups.

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[139] *Id.*
[140] *Id.*
[141] *Id.*
[142] July 18th Hearing, *supra* note 28

TIGTA found that none of the applications in the IRS backlog were filed by groups with "Occupy" in their names.[143] Several IRS employees interviewed by the Committee testified that they were not even aware of any Occupy entry on the BOLO list until after congressional Democrats released the information in June 2013.[144] Further, there is no indication that the IRS systematically scrutinized and delay Occupy applications, or that the IRS subjected Occupy applicants to burdensome and intrusive information requests. To date, the Committee has not received evidence that "Occupy Wall Street" or an affiliate organization even applied to the IRS for non-profit status.

## Conclusion

Democrats in Congress and the Administration have perpetrated a myth that the IRS targeted both conservative and liberal tax-exempt applicants. The targeting is a "phony scandal," they say, because the IRS did not just target Tea Party groups, but it targeted liberal and progressive groups as well. Month after month, in public hearings and televised interviews, Democrats have repeatedly claimed that progressive groups were scrutinized in the same manner as conservative groups.[145] Because of this bipartisan targeting, they conclude, there is not a "smidgeon of corruption" at the IRS.

The problem with these assertions is that they are simply not accurate. The Committee's investigation shows that the IRS sought to identify and single out Tea Party applications. The facts bear this out. The initial "test" applications were filed by Tea Party groups. The initial screening criteria identified only Tea Party applications. The revised criteria still intended to identify Tea Party activities. The IRS's internal review revealed that a substantial majority of applications were conservative. In short, the IRS treated conservative tax-exempt applications in a manner distinct from other applications, including those filed by liberal groups.

Evidence available to the Committee contradicts Democrats' claims about bipartisan targeting. Although the IRS's BOLO list included entries for liberal-oriented groups, only Tea Party applicants received systematic scrutiny because of their political beliefs. Public and nonpublic analyses of IRS data show that the IRS routinely approved liberal applications while holding and scrutinizing conservative applications. Even training documents produced by the IRS indicate stark differences between liberal and conservative applications: "'progressive' applications are not considered "Tea Parties."'[146] These facts show one unyielding truth: Tea Party groups were target because of their political beliefs, liberal groups were not.

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[143] *"The IRS's Systematic Delay and Scrutiny of Tea Party Applications": Hearing before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (2013) (statement of J. Russell George).

[144] *See, e.g.*, Transcribed interview of Elizabeth Kastenberg, Internal Revenue Serv., in Wash., D.C. (July 31, 2013); Transcribed interview of Sharon Light, Internal Revenue Serv., in Wash., D.C. (Sept. 5, 2013); Transcribed interview of Joseph Grant, Internal Revenue Serv., in Wash., D.C. (Sept. 25, 2013); Transcribed interview of Nancy Marks, Internal Revenue Serv., in Wash., D.C. (Oct. 8, 2013); Transcribed interview of Justin Lowe, Internal Revenue Serv., in Wash., D.C. (July 23, 2013).

[145] Press Release, H. Comm. on Ways and Means Democrats & H. Comm. on Oversight & Gov't Reform Democrats, New Documents Highlight IRS Scrutiny of Progressive Groups (Aug. 20, 2013).

[146] Internal Revenue Serv., Screening Workshop Notes (July 28, 2010). [IRSR 6703-04]

**A. Timeline for the 3 exemption applications that were referred to EOT from EOD**

| **1. Prescott Tea Party, LLC** | **2. American Junto, Inc.** | **3. Albuquerque Tea Party, Inc.** |
|---|---|---|
| The Applicant sought exemption under §501(c)(3) formed to educate the public on current political issues, constitutional rights, fiscal responsibility, and support for a limited government. It planned to undertake this educational activity through rallies, protests, educational videos and through its website. The organization also intended to engage in legislative activities. The case was closed FTE on May 26, 2010. | The organization applied for exemption under §501(c)(3), stating it was formed to educate voters on current social and political issues, the political process, limited government, and free enterprise. It also indicated it would be involved in political campaign intervention and legislative activities. The case was closed FTE on January 4, 2012. | The organization applied for exemption under §501(c)(4) as a social welfare organization for purposes of issue advocacy and education. A proposed adverse is being prepared on the basis that the organization's primary activity is political campaign intervention supporting candidates associated with a certain political faction, its educational activities are partisan in nature, and its activities are intended to benefit candidates associated with a specific political faction as opposed to benefiting the community as a whole. |
| **Timeline:**<br>**2009**<br>• **11/09/2009** → Application received by EOD.<br>• **12/18/2009** → Case assigned to EOD specialist.<br>**2010**<br>• **3/08/2010** → **Date the case was referred to EOT.** Case pulled from | **Timeline:**<br>**2010**<br>• **2/11/2010** → Application was received by EOD. | **Timeline:**<br>**2010**<br>• **1/4/2010** → Application was received by EOD. |

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| | | |
|---|---|---|
| EOD files to send to EOT for review.<br>• **3/11/2010** → EOD prepared a memo to transfer the case to EOT as part of EOT's review of some of the "advocacy organization" cases being received in EOD.<br>• **4/02/2010** → Case assigned to EOT.<br>• **4/14/2010** → 1st development letter mailed to Taxpayer (Response due by 5/06/2010).<br>• **5/26/2010** → Case closed FTE (90-day suspense date ended on 8/26/2010). | • **4/11/2010** → Case assigned to a specialist in EOD.<br>• **4/25/2010** → EOD emailed EOT (Manager Steve Grodnitzky) regarding who EOD should contact for help on "advocacy organization" cases being held in screening.<br>• **5/25/2010** → EOT requested a §501(c)(3) "advocacy organization" case be transferred from EOD to replace Prescott Tea Party, LLC, a §501(c)(3) advocacy organization applicant that had been closed FTE.<br>• **6/25/2010** → Memo proposing to transfer the case to EOT was prepared by EOD specialist.<br>• **6/30/2010** → **Date the case was referred to EOT**.<br>• **7/7/2010** → 1st development letter sent (Response due by 7/28/2010).<br>• **7/28/2010** → EOT received Taxpayer's response to 1st development letter. | • **2/22/2010** → Case assigned to EOD specialist.<br>• **3/11/2010** → EOD prepared memo to transfer the case to EOT as part of EOT's help reviewing the "advocacy organization" cases received in EOD.<br>• **4/02/2010** → Case assigned to EOT.<br>• **4/21/2010** → 1st development letter sent (Response due by 5/12/2010).<br>• **4/29/2010** → Taxpayer requested extension for time to respond to 1st development letter. TLS granted extension until 6/11/2010.<br>• **6/8/2010** → EOT received the Taxpayer's response to 1st development letter. |

-3-

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| | **2011**<br>• **4/27/2011** → 2nd development letter sent (Response due by 5/18/2011).<br>• **5/18/2011** → EOT received Taxpayer's response to 2nd development letter.<br>• **8/10/2011** → EOT met with Chief Counsel to discuss the "advocacy organization" cases pending in EOT, including American Junto (and Albuquerque Tea Party, discussed next). EOT and Counsel determined that additional development should be conducted on both.<br>• **11/18/2011** → 3rd development letter sent (Response due by 12/9/2011).<br>• **12/16/2011** → TLS left voicemail with Taxpayer to determine if the organization had responded or planned to respond to 3rd development letter.<br>• **12/22/2011** → TLS again contacted the Taxpayer to determine if the organization was going to respond to 3rd development letter. The Taxpayer indicated it was not going to respond and that the organization had | **2011**<br>• **5/13/2011** → File memo forwarded to Guidance for review.<br>• **6/27/2011** → The case file and file memo were forwarded to Chief Counsel for review and comments regarding EOT's proposed recognition of exemption.<br>• **8/10/2011** → EOT met with Chief Counsel to discuss the "advocacy organization" cases pending in EOT including Albuquerque Tea Party (and American Junto, discussed previously). EOT and Counsel determined additional development should be conducted on both.<br>• **11/16/2011** → 2nd development letter sent to the Taxpayer (Response due by 12/7/2011).<br>• **11/30/2011** → TLS spoke with Taxpayer and granted a 30-day extension to respond to the 2nd development letter. Extension was granted until 1/6/2012. |

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| | dissolved. An FTE letter was prepared.<br><br>**2012**<br><br>• **1/4/2012** → FTE letter mailed to the Taxpayer (90-day suspense date ends 4/4/2012). | **2012**<br><br>• **1/11/2012** → EOT received Taxpayer's response to 2nd development letter.<br>• **1/24/2012** → After review of file, TLS recommended a proposed denial. The TLS is currently drafting a proposed denial. |

**B. Timeline for informal technical assistance which was provided by EOT Personnel to EOD between May 2010 to October 2010**

- 5/17/2010 → EOD personnel (Liz Hofacre) contacted and referred 2 proposed development letters to an EOT personnel (Chip Hull) for informal review.
- Between May, 2010 to October 2010, EOT personnel (Chip Hull) informally reviewed approximately 26 case exemption applications and development letters on behalf of EOD. Mr. Hull provided feedback on most of the 26 exemption applications.

**C. Timeline for preparation of the Advocacy Organization Guide sheet**

- Late July 2011 - started drafting the guide sheet to help EOD personnel working advocacy organization cases in differentiating between the different types of advocacy and explaining the advocacy rules pertaining to various exempt organizations.
- Early November 2011 - forwarded to EOD for comments. No comments were received.

# Increase in (c)(3)/(c)(4) Advocacy Org. Applications

**Background:**

- EOD Screening has identified an increase in the number of (c)(3) and (c)(4) applications where organizations are advocating on issues related to government spending, taxes and similar matters. Often there is possible political intervention or excessive lobbying.

- EOD Screening identified this type of case as an emerging issue and began sending cases to a specific group if they meet any of the following criteria:
  - "Tea Party," "Patriots" or "9/12 Project" is referenced in the case file
  - Issues include government spending, government debt or taxes
  - Education of the public by advocacy/lobbying to "make America a better place to live"
  - Statements in the case file criticize how the country is being run

- Over 100 cases have been identified so far, a mix of (c)(3)s and (c)(4)s. Before this was identified as an emerging issue, two (c)(4) applications were approved.

- Two sample cases were transferred to EOT, a (c)(3) and a (c)(4).
  - The (c)(4) stated it will conduct advocacy and political intervention, but political intervention will be 20% or less of activities. A proposed favorable letter has been sent to Counsel for review.
  - The (c)(3) stated it will conduct "insubstantial" political intervention and it has ties to politically active (c)(4)s and 527s. A proposed denial is being revised by TLS to incorporate the org.'s response to the most recent development letter.

- EOT is assisting EOD by providing technical advice (limited review of application files and editing of development letters).

**EOD Request:**

- EOD requests guidance in working these cases in order to promote uniform handling and resolution of issues.

**Options for Next Steps:**

- Assign cases for full development to EOD agents experienced with cases involving possible political intervention. EOT provides guidance when EOD agents have specific questions.

- EOT composes a list of issues or political/lobbying indicators to look for when investigating potential political intervention and excessive lobbying, such as reviewing website content, getting copies of educational and fundraising materials, and close scrutiny of expenditures.

- Establish a formal process similar to that used in healthcare screening where EOT reviews each application on TEDS and highlights issues for development.

- Transfer cases to EOT to be worked.

- Include pattern paragraphs on the political intervention restrictions in all favorable letters.

- Refer the organizations that were granted exemption to the ROO for follow-up.

**Cautions:**

- These cases and issues receive significant media and congressional attention.

- The determinations process is representational, therefore it is extremely difficult to establish that an organization will intervene in political campaigns at that stage.

**EO Technical**
**Significant Case Report**
**( August 31, 2011)**

- *21 open SCs*

**A. Open SCs:**

| | Name of Org/Group | Group #/Manager | EIN | Received | Issue | Tax Law Specialist | Estimated Completion Date | Status/Next action | Being Elevated to TEGE Commissioner This Month |
|---|---|---|---|---|---|---|---|---|---|
| 1. | Political Advocacy Organizations | T2/Ron Shoemaker | [redacted] | 4/2/2010 | Whether a tea party organization meets the requirements under section 501(c)(3) and is not involved in political intervention. Whether organization is conducting excessive political activity to deny exemption under section 501(c)(4) | Chip Hull & Hilary Goehausen | 3/31/2011 (Orig) 05/31/2011 (Rev) 07/31/2011 (Rev) 10/30/2011 (Rev) 12/31/2011 (Rev) | Developing both a (c)(3) and (c) (4) cases. Proposed (c)(4) favorable is currently being reviewed. Proposed denial currently being reviewed on (c)(3). Cases were discussed with Judy Kindell on 04/06/11. Judy requested staff to get additional information from taxpayers regarding certain activities. Development letters were sent. Proposed favorable (c)(4) ruling forwarded to Chief Counsel for comments on 05/04/11. Information from (c)(3) organization regarding activities due on 05/18/2011.Waiting on taxpayer response. : Met with Director EO on June 29, 2011. Met with Counsel on 8/10/11 to discuss the cases: Counsel recommended further development of the cases by getting information on the organizations' 2010 activities. Counsel gave us directions on the type of information needed. [redacted] **Next Action:** [redacted] | No |

| | |
|---|---|
| **CASE NAME:** (1) [redacted] (501(c)(3) applicant), (2) [redacted] (501(c)(4) applicant), (3) [redacted] (501(c)(3) applicant)<br><br>**TIN/EIN:** [redacted] and [redacted]<br>**POA:** None | **TAX PERIODS:** [redacted]<br><br>**EARLIEST STATUTE DATE:** |
| **FUNCTION REPORTING:**<br><br>**POD:** Washington, D.C. | **INITIAL REPORT**<br>**X FOLLOW-UP REPORT**<br>**FINAL REPORT** |
| **SENSITIVE CASE CRITERIA:**<br>Likely to attract media or Congressional attention<br>Unique or novel issue<br>Affects large number of taxpayers | Potentially involves large dollars ($10M or greater)<br>Other (explain in Case Summary) |
| **FORM TYPE(S):**<br>(1) Form 1023. (2) Form 1024 | **START DATE:**<br>04/02/2010 |
| **POTENTIAL DOLLARS INVOLVED (IF > $10M) :**<br>Unknown | **CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?**<br><br>**Freeze Code TC 914 ( Yes or No)** |

**CASE OR ISSUE SUMMARY:**
The various "tea party" organizations are separately organized, but appear to be a part of a national political movement that may be involved in political activities. The "tea party" organizations are being followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati is holding three applications from organizations which have applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and approximately twenty-two applications from organizations which have applied for recognition of exemption under section 501c)(4) as social welfare organizations. Two organizations that we believe may be "tea party" organizations already have been recognized as exempt under section 501(c)(4). EOT has not seen the case files, but are requesting copies of them. The issue is whether these organizations are involved in campaign intervention or, alternatively, in nonexempt political activity.

**CURRENT SIGNIFICANT ACTIONS ON CASE:**
Met with J. Kindell to discuss organizations (2) and (3) and Service position. Ms. Kindell recommended additional development re: activities, then forward to Chief Council.

Organization (1) – closed FTE for failure to respond to a development letter.
Organization (2) – proposed favorable 501(c)(4) ruling forwarded to Chief Council for comment on 06/16/2011.
Organization (3) – additional information was received. Proposed denial was revised and forwarded for review 07/19/2011.
Coordination between HQ and Cincinnati is continuing regarding information letters to applicants for exemption under 501(c)(3) and 501(c)(4).

| | |
|---|---|
| **SIGNIFICANT NEXT STEPS, IF ANY:**<br>Organization (2) – Wait on comments from Counsel. Organization (3) Await the results of review on the revised proposed denial.<br>.Continue coordinated review of applications in EO Determinations. | **ESTIMATED CLOSURE DATE:**<br>July 31 , 2011 |
| **BARRIERS TO RESOLUTION, IF ANY:**<br>Concerns whether the organizations are involved in political activities. | |
| **SUBMITTED BY:** Carter C. Hull, SE:T:EO:RA:T:2 | **MANAGER:** RONALD SHOEMAKER, SE:T:EO:RA:T:2 |
| **DATE:** June **17, 2011** | |

| | |
|---|---|
| **CASE NAME:**<br>(1) [redacted] (501(c)(3) applicant), Closed FTE.<br>(2) [redacted]. (501)(c)(4) applicant)<br>Open.<br>(3) [redacted] (501(c)(3) applicant)<br>Closed FTE<br><br>**TIN/EIN:** [redacted] and [redacted]<br>**POA:** None | **TAX PERIODS:** 2009 and forward<br><br>**EARLIEST STATUTE DATE:** |
| **FUNCTION REPORTING:**<br><br>**POD:** Washington, D.C. | **INITIAL REPORT**<br>**X FOLLOW-UP REPORT**<br>**FINAL REPORT** |
| **SENSITIVE CASE CRITERIA:**<br>Likely to attract media or Congressional attention<br>Unique or novel issue<br>Affects large number of taxpayers | Potentially involves large dollars ($10M or greater)<br>Other (explain in Case Summary) |
| **FORM TYPE(S):**<br>(1) Form 1023 (2) Form 1024 | **START DATE:**<br>04/02/2010 |
| **POTENTIAL DOLLARS INVOLVED (IF > $10M) :**<br>Unknown | **CRIMINAL REFERRAL?** Unknown **IF YES, WHEN?**<br><br>**Freeze Code TC 914 ( Yes or No)** |

**CASE OR ISSUE SUMMARY:**
These organizations are "advocacy organizations," and although are separately organized, they appear to be part of a larger national political movement that may be involved in political activities. These types of advocacy organizations are followed closely in national newspapers (such as The Washington Post) almost on a regular basis. Cincinnati has in its inventory a number of applications from these types of organizations that applied for recognition of exemption under section 501(c)(3) of the Code as educational organizations and from organizations that applied for recognition of exemption under section 501(c)(4) as social welfare organizations.

**CURRENT SIGNIFICANT ACTIONS ON CASE:**
Organization (1) – [redacted] - [redacted]

Organization (2) – [redacted]. 501(c)(4) [redacted]

[redacted]

| | |
|---|---|
| **SIGNIFICANT NEXT STEPS, IF ANY:**<br>Organization (2): [redacted] 6103 [redacted] –<br>501(c)(4) - [redacted] | **ESTIMATED CLOSURE DATE:**<br>December 31, 2012 |
| **BARRIERS TO RESOLUTION, IF ANY:**<br>Concerns are whether the organizations are primarily involved in political activities and whether substantial private benefit exists. | |
| **SUBMITTED BY:** Hilary Goehausen, SE:T:EO:RA:T:1 | **MANAGER:** LIZ KASTENBERG, SE:T:EO:RA:T:2 |
| **DATE: September 18, 2012** | |

**From:** Kall Jason C
**Sent:** Tuesday, January 10, 2012 9:09 PM
**To:** Lerner Lois G
**Cc:** Ghougasian Laurice A; Fish David L; Paz Holly O; Downing Nanette M
**Subject:** Workplan and background on how we started the self declarer project

Lois,

I found the string of e-mails that started us down the path of what has become the c-4, 5, 6 self declarer project. Our curiosity was not from looking at the 990 but rather data on c-4 self declarers.

*Jason Kall*
Manager, EO Compliance Strategies and Critical Initiatives
[redacted]

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**From:** Chasin Cheryl D
**Sent:** Thursday, September 16, 2010 8:59 AM
**To:** Lerner Lois G; Kindell Judith E; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Subject:** RE: EO Tax Journal 2010-130

That's correct. These are all status 36 organizations, which means no application was filed.

Cheryl Chasin
[redacted](phone)
[redacted](fax)

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**From:** Lerner Lois G
**Sent:** Thursday, September 16, 2010 9:58 AM
**To:** Chasin Cheryl D; Kindell Judith E; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Subject:** Re: EO Tax Journal 2010-130

Ok guys. We need to have a plan. We need to be cautious so it isn't a per se political project. More a c4 project that will look at levels of lobbying and pol. activity along with exempt activity. Cheryl- I assume none of those came in with a 1024?
Lois G. Lerner----------
Sent from my BlackBerry Wireless Handheld

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**From:** Chasin Cheryl D
**To:** Lerner Lois G; Kindell Judith E; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Sent:** Wed Sep 15 14:54:38 2010
**Subject:** RE: EO Tax Journal 2010-130

It's definitely happening. Here are a few organizations (501(c)(4), status 36) that sure sound to me like they are engaging in political activity:

[redacted]

I've also found (so far) 94 homeowners and condominium associations, a VEBA, and legal defense funds set up to benefit specific individuals.

Cheryl Chasin
[redacted] (phone)
[redacted] (fax)

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**From:** Lerner Lois G
**Sent:** Wednesday, September 15, 2010 1:51 PM
**To:** Kindell Judith E; Chasin Cheryl D; Ghougasian Laurice A
**Cc:** Lehman Sue; Kall Jason C; Downing Nanette M
**Subject:** RE: EO Tax Journal 2010-130

I'm not saying this is correct--but there is a perception out there that that is what is happening. My guess is most who conduct political activity never pay the tax on the activity and we surely should be looking at that. Wouldn't that be a surprising turn of events. My object is not to look for political activity--more to see whether self-declared c4s are really acting like c4s. Then we'll move on to c5,c6,c7--it will fill up the work plan forever!

*Lois G. Lerner*
Director, Exempt Organizations

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**From:** Kindell Judith E
**Sent:** Wednesday, September 15, 2010 1:03 PM
**To:** Lerner Lois G; Chasin Cheryl D; Ghougasian Laurice A
**Cc:** Lehman Sue
**Subject:** RE: EO Tax Journal 2010-130

My big concern is the statement "some (c)(4)s are being set up to engage in political activity" - if they are being set up to engage in political campaign activity they are not (c)(4)s. I think that Cindy's people are keeping an eye out for (c)(4)s set up to influence political campaigns, but we might want to remind them. I also agree that it is about time to start looking at some of those organizations that file Form 990 without applying for recognition -whether or not they are involved in politics.

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**From:** Lerner Lois G
**Sent:** Wednesday, September 15, 2010 12:27 PM

**To:** Chasin Cheryl D; Ghougasian Laurice A; Kindell Judith E
**Cc:** Lehman Sue
**Subject:** FW: EO Tax Journal 2010-130

Not sure you guys get this directly. I'm really thinking we do need a c4 project next year

*Lois G. Lerner*
Director, Exempt Organizations

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**From:** paul streckfus [redacted]
**Sent:** Wednesday, September 15, 2010 12:20 PM
**To:** paul streckfus
**Subject:** EO Tax Journal 2010-130

*From the Desk of Paul Streckfus,*
*Editor, EO Tax Journal*

**Email Update 2010-130 (Wednesday, September 15, 2010)**
Copyright 2010 Paul Streckfus

Yesterday, I asked, "Is 501(c)(4) Status Being Abused?" I can hardly keep up with the questions and comments this query has generated. As noted yesterday, some (c)(4)s are being set up to engage in political activity, and donors like them because they remain anonymous. Some commenters are saying, "Why should we care?", others say these organizations come and go with such rapidity that the IRS would be wasting its time to track them down, others say (c)(3) filing requirements should be imposed on (c)(4)s, and so it goes.

Former IRSer Conrad Rosenberg seems to be taking a leave them alone view:

"I have come, sadly, to the conclusion that attempts at revocation of these blatantly political organizations accomplish little, if anything, other than perhaps a bit of *in terrorem* effect on some other (usually much smaller) organizations that may be contemplating similar behavior. The big ones are like balloons -- squeeze them in one place, and they just pop out somewhere else, largely unscathed and undaunted. The government expends enormous effort to win one of these cases (on very rare occasion), with little real-world consequence. The skein of interlocking 'educational' organizations woven by the fabulously rich and hugely influential Koch brothers to foster their own financial interests by political means ought to be Exhibit One. Their creations operate with complete impunity, and I doubt that potential revocation of tax exemption enters into their calculations at all. That's particularly true where deductibility of contributions, as with (c)(4)s, is not an issue. Bust one, if you dare, and they'll just finance another with a different name. I feel for the IRS's dilemma, especially in this wildly polarized election year."

A number of individuals said the requirements for (c)(4)s to file the Form 1024 or the Form 990 are a bit of a muddle. My understanding is that (c)(4)s need not file a Form 1024, but generally the IRS won't accept a Form 990 without a Form 1024 being filed. The result is that attorneys can create new (c)(4)s every year to exist for a short time and never file a 1024 or 990. However, the IRS can claim the organization is subject to tax (assuming it becomes aware of its existence) and then the organization must prove it is exempt (by essentially filing the information required by Form 1024 and maybe 990). Not being sure of the correctness of my understanding, I went to the only person who may know more about EO tax law than Bruce Hopkins, and got this response from Marc Owens:

"You are sort of close. It's not quite accurate to state that a (c)(4) 'need not file a Form 1024.' A (c)(4) is not subject to IRC 508, hence it is not required to file an application for tax-exempt status within a particular period of time after its formation. Such an organization is subject, however, to Treas. Reg. Section 1.501(a)-1(a)(2) and (3) which set forth the general requirement that in order to be exempt, an organization must file an application, but for which no particular time period is specified. Once a would-be (c)(4) is formed and it has completed one fiscal year of life, and assuming that it had revenue during the fiscal year, it is required to file a tax return.

move things along. the 'clean" sheet doesn't give me any sense unless I go back to previous SCRs.

I've added Sharon so she can see what kinds of things I'm interested in.

*Lois G. Lerner*
Director, Exempt Organizations

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**From:** Paz Holly O
**Sent:** Wednesday, February 02, 2011 11:02 AM
**To:** Lerner Lois G; Seto Michael C
**Cc:** Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
**Subject:** RE: SCR Table for Jan. 2011

Tea Party - Cases in Determs are being supervised by Chip Hull at each step - he reviews info from TPs, correspondence to TPs, etc. No decisions are going out of Cincy until we go all the way through the process with the c3 and c4 cases here. I believe the c4 will be ready to go over to Judy soon.

HMO case ([redacted]) - When you say to push for the next Counsel meeting, with whom in Counsel are you referring? The plan had been for Sarah to meet with Wilkins and Nan on this. We think this has not happened but have not heard directly (unless Sarah has responded to your recent email on this case). I don't know that we at this level can drive that meeting.

[redacted]-I will reach out to Phil to see if Nan has seen it. She was involved in the past but I don't know about recently.

On [redacted] (religious order), proposed denials typically do not go to Counsel. Proposed denial goes out, we have conference, then final adverse goes to Counsel before that goes out. We can alter that in this case and brief you after we have Counsel's thoughts.

[redacted] was not elevated at Mike Daly's direction. He had us elevate it twice after the litigation commenced but said not to continue after that unless we are changing course on the application front and going forward with processing it.

[redacted] - Our general criteria as to whether or not to elevate an SCR to Sarah/Joseph and on up is to only elevate when there has been action. [redacted] was elevated this month because it was just received. We will now begin to review the 1023 but won't have anything to report for sometime. We will elevate again once we have staked out a position and are seeking executive concurrence.

We (Mike and i) keep track of whether estimated completion dates are being moved by means of a track changes version of the spread sheet. When next steps are not reflected as met by the estimated time, we follow up with the appropriate managers or Counsel to determine the cause for the delay and agree on a due date.

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**From:** Lerner Lois G
**Sent:** Tuesday, February 01, 2011 6:28 PM
**To:** Seto Michael C
**Cc:** Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L; Kindell Judith E
**Subject:** RE: SCR Table for Jan. 2011

Thanks--a couple comments

1. Tea Party Matter very dangerous. This could be the vehicle to go to court on the issue of whether Citizen's United overturning the ban on corporate spending applies to tax exempt rules. Counsel and Judy Kindell need to be in on this one please needs to be in this. Cincy should probably NOT have these cases--Holly please see what exactly they have please.

2. We need to push for the next Counsel meeting re: the HMO case Justin has. Reach out and see if we can set it up.

3. [redacted]--has that gone to Nan Marks? It says Counsel, but we'll need her on board. In all cases where it says Counsel, I need to know at what level please.

4. I assume the proposed denial of the religious or will go to Counsel before it goes out and I will be briefed?

5. I think no should be yes on the elevated to TEGE Commissioner slot for the Jon Waddel case that's in litigation--she is well aware.

6. Case involving healthcare reconciliation Act needs to be briefed up to my level please.
7. SAME WITH THE NEWSPAPER CASES--NO GOING OUT WITHOUT BRIEFING UP PLEASE.

8. The 3 cases involving [redacted] should be briefed up also.

9. [redacted] case--why "yes-for this month only" in TEGE Commissioner block?

Also, please make sure estimated due dates and next step dates are after the date you send these. On a couple of these I can't tell whether stuff happened recently or not.

Question--if you have an estimated due date and the person doesn't make it, how is that reflected? My concern is that when Exam first did these, they just changed the date so we always looked current, rather than providing a history of what occurred. perhaps it would help to sit down with me and Sue Lehman--she helped develop the report they now use.

---

**From:** Seto Michael C
**Sent:** Tuesday, February 01, 2011 5:33 PM
**To:** Lerner Lois G
**Cc:** Paz Holly O; Trilli Darla J; Douglas Akaisha; Letourneau Diane L
**Subject:** SCR Table for Jan. 2011

Here is the Jan. SCR summary.

# Heightened Awareness Issues

IRSR0000006655

# OBJECTIVES

- What Are The Heightened Awareness Issues
- Definition and Examples of Each
- Issue Tracking and Notification
- What Happens When You See One?

IRSR0000006656

# What are Heightened Awareness Issues?

- TAG
- Emerging Issues
- Coordinated Issues
- Watch For Issues

# Your Role

- Per IRM 1.54.1.6.1, a Front Line Employee Should Elevate the Following Matters Concerning Their Work:

  1. Unusual Issues that Prevent them from Completing Their Work.

  2. Issues Beyond Their Current Level of Training.

  3. Issues that Require Elevation in Accordance with Statute, Revenue Procedure, or Field Directive.

# What are TAG Issues ?:

- Involves Abusive Tax Avoidance Transactions:
  1. Abusive Promoters
  2. Fake Determination Letters

- Activities are Fraudulent In Nature:
  1. Materially Misrepresented Operations or Finances.
  2. Conducting Activities Contrary to Tax Law (e.g. Foreign Conduits).

- Issues Involving Applicants with Potential Terrorist Connections:
  1. Cases with Direct Hits on OFAC
  2. Substantial Foreign Operations in Sanctioned Countries

- Processing is Governed by IRM 7.20.6

# What Are Emerging Issues?

- Groups of Cases where No Established Tax Law or Precedent has been Established.
- Issues Arising from Significant Current Events (Doesn't Include Disaster Relief)
- Issues Arising from Changes to Tax Law
- Other Significant World Events

# Emerging Issue Examples

- Tea Party Cases:
  1. High Profile Applicants
  2. Relevant Subject in Today's Media
  3. Inconsistent Requests for 501(c)(3) and 501(c)(4).
  4. Potential for Political/Legislative Activity
  5. Rulings Could be Impactful

# Emerging Issue Examples Continued:

- Pension Trust 501(c )(2):
  1. Cases Involved the Same Law Firm
  2. High Dollar Amounts
  3. Presence of an Unusual Note Receivable

# Emerging Issues Examples Continued

- Historical Examples:
  1. Foreclosure Assistance
  2. Carbon Credits
  3. Pension Protection Act
  4. Credit Counseling
  5. Partnership/Tax Credits
  6. Hedge Funds

# What Are Coordinated Processing Issues?

- Cases with Issues Organized for Uniform Handling
- Involves Multiple Cases
- Existing Precedent or Guidance Does Exist

# Coordinated Examples

- Break-up of a Large Group Ruling Where Subordinates are Seeking Individual Exemption.
- Multiple Entities Related Through a Complex Business Structure (e.g. Housing and Management Companies)
- Current Specialized Inventories

# What is a Watch For Issue?

# Watch For Issues:

- Typically Applications Not Yet Received
- Issues are the Result of Significant Changes in Tax Law
- Issues are the Result of Significant World Events
- Special Handling is Required when Applications are Received

# Watch For Examples

# Watch For Examples Continued

- Successors to Acorn
- Electronic Medical Records
- Regional Health Information Organizations
- Organizations Formed as a Result of Controversy---- Arizona Immigration Law
- Other World Events that ***Could*** Result in an Influx of Applications

# Tracking and Notification

IRSR0000006670

# Combined Excel Workbook

- Will Include Tabs for TAG, TAG Historical, Emerging Issues, Coordinated, and Watch For
- Tabs Will Include the Various Issues, Descriptions, and Guidance.
- A Designated Coordinator Will Maintain the Workbook and Disseminate Alerts in One Standard E-Mail.
- Mailbox: *TE/GE-EO-Determinations Questions

# When You Spot Heightened Awareness Issues

- If a TAG Issue, follow IRM 7.20.6.
- If an Emerging Issue or Coordinated Processing Case, Complete the Required Referral Form and Submit to your Manager
- Watch For Issue Cases are Referred to your Manager

IRS0000001349

File 11 9 10

Tab 1 - TAG

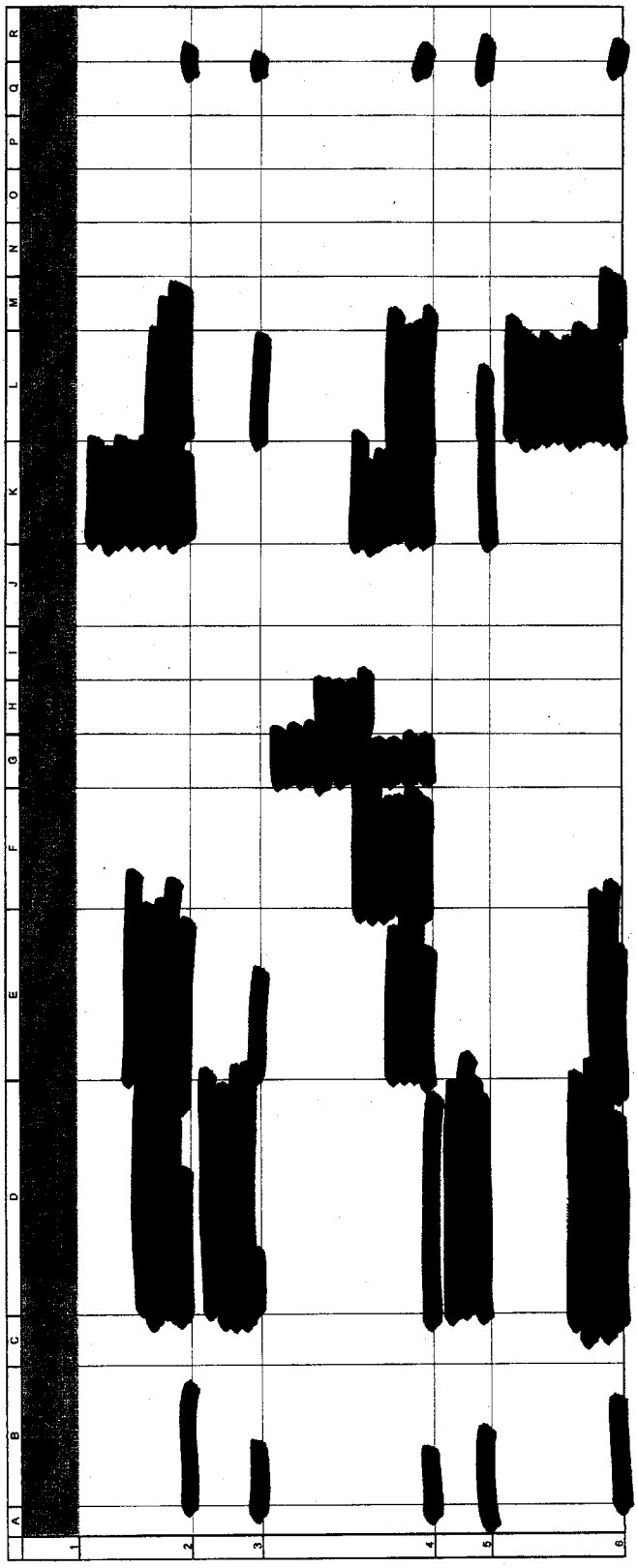
| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| [redacted] | | | | | | | | | | | | | | | |
| [redacted] | | | | | | | | | | | | | | | |
| 1 Corporation Sole | The AOI and application will refer to "corporation sole" or "corporate sole". Form 1023 may show only one person involved with the applicant. Titles the Overseer, Elder, Patriarch, Matriarch, Administrator, Pastor, etc. | The applicant may or may not request foundation status as a church. | | | Potentially abusive scheme | | | | | | | | | | |
| [redacted] | | | | | | | | | | | | | | | |
| 3 fictitious exemption letter | If you run across a fictitious exemption letter, take the issue to your group manager so that it can be forwarded through management channels to the TAG Coordinator. | | | | Fraud Indications. | | | | | | | | | | |
| 4 Puerto Ric[redacted] | Applicant usually has a Puerto Rico address. [redacted] Activities involve elderly housing for the very low income, [redacted] | and head-start programs. The return address on the original or photocopy of the envelope is usually [redacted] completes 1023 free of charge. | Federal government grants is listed as the primary source of income. [redacted] We have also identified 4 cases where [redacted] | | Not yet determined. | | | | | | | | | | |
| [redacted] | | | | | | | | | | | | | | | |
| [redacted] | | | | | | | | | | | | | | | |
| [redacted] | | | | |

IRS0000001351

File 11 9 10

Tab 2 – TAG Historical

IRS0000001352



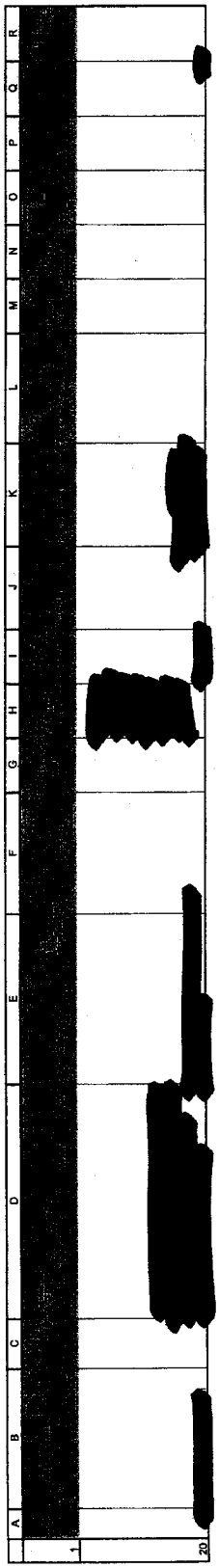
IRS0000001353

| | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | [redacted] | | | | | | | | | | | | | | | | | |
| 7 | | [redacted] | | [redacted] | | | [redacted] | | | | | | [redacted] | | | | | |
| 8 | | [redacted] Testamentary Trusts (Not [redacted] 63 Trusts) | | Forms 1023 submitted by various banks including [redacted]. All are testamentary trusts. Some paid $150 user fee and may or may not owe more - depends on how long ago the trust was funded. | These cases are basically NECTs but all of them have not filed Forms 990-PF as they are required to do. Some trusts filed Form 1041 and some did not. [redacted] PF status is being requested. Case grade should be 12. Contributions paid out may exceed $10,000 even though a $150 user fee was paid. | | | Questionable financial data. | | | | | | | | | | |
| 9 | | [redacted] | | [redacted] | | | [redacted] | | | | [redacted] | | | | | | | |
| 10 | | | | [redacted] | | | [redacted] | | | | [redacted] | | | | | | | |

IRS0000001354

| | A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | [redacted] | | | | | | | | | | | | | | | | | |
| 11 | | [redacted] | | [redacted] | [redacted] | | | | | | | [redacted] | [redacted] | | | | | [redacted] |
| 12 | | [redacted] | | [redacted] | | | | | | | | [redacted] | | | | | | [redacted] |
| 13 | | [redacted] | | [redacted] | [redacted] | [redacted] | | | | | | | [redacted] | | | | | [redacted] |
| 14 | | [redacted] | | [redacted] | [redacted] | [redacted] | | | | | | | | | | | | [redacted] |
| 15 | | [redacted] | | [redacted] | | | | | | | | | | | | | | [redacted] |
| 16 | 170 Progressive | | | Political activities | Common thread is the word "progressive". Activities appear to lean toward a new political party. Activities are not clear, but appear to be Republican. Focus seems to "blur" as being "progressive". | | | Applicants submit Form 1023. Their "progressive" activities appear to allow that (c)(3) may not be appropriate. | | | | | | | | | | 2 |
| 17 | | [redacted] | | | [redacted] | [redacted] | | | | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | | | | [redacted] |
| 18 | 180 [redacted] Cases | | | TAG Category: Same address. 178 cases using same address. Promoter was [redacted]. Add info letter used by agents was coordinated with Headquarters and was received from Area Counsel. Some organizations disassociated themselves with [redacted] | | | | | | | | | | | | | | 5 |
| 19 | | [redacted] | | [redacted] | [redacted] | | | | | | | [redacted] | | | | | | [redacted] |

IRS0000001355



IRS0000001356

File 11 9 10

Tab 3 – Emerging Issues

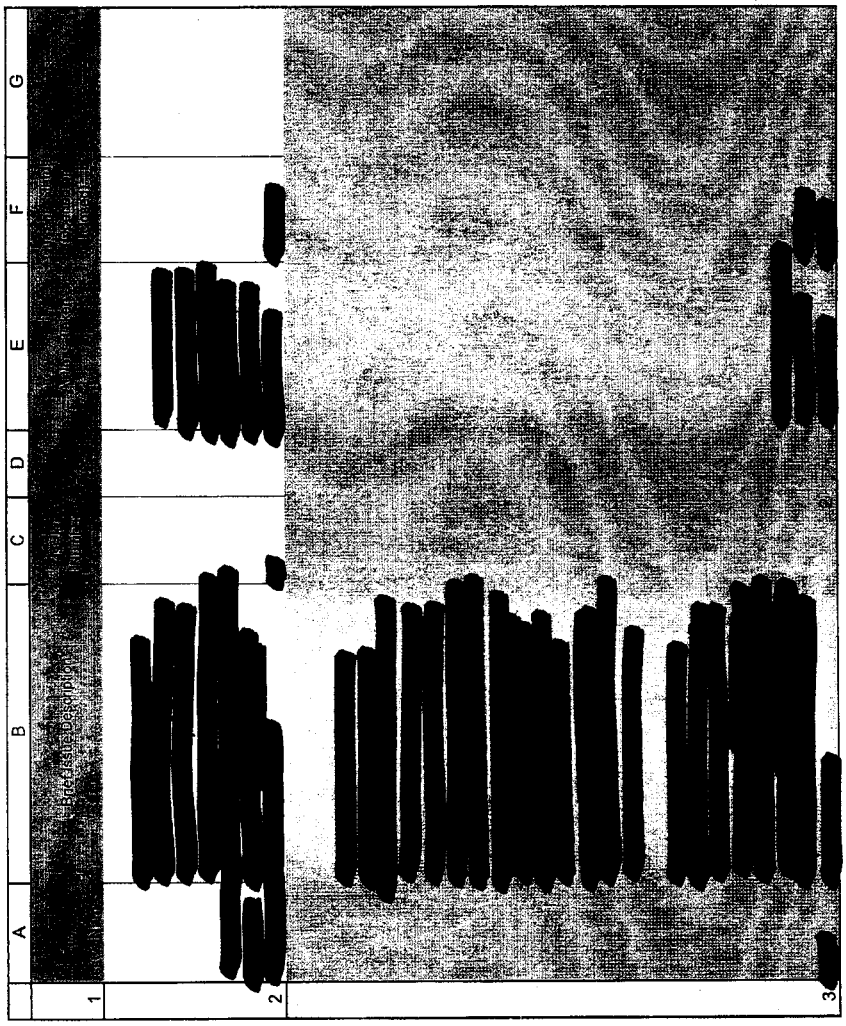
| | A | B | C | D | E | F | G | H |
|---|---|---|---|---|---|---|---|---|
| 1 | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] |
| 2 | 501(c)(2) | These cases involve a commingled pension trust holding title to a high dollar note receivable secured by real estate. The application appear to be prepared from a template. The fund manager is usually [redacted] | | x | x | Any future cases may be closed on merit if applicable. EOT determined these applications qualify under 501(c)(2). A referral was completed to address any EP concerns. | Closed | |
| 3 | Tea Party | These case involve various local organizations in the Tea Party movement are applying for exemption under 501(c)(3) or 501(c)(4). | | EI-1 | x | Any cases should be sent to Group 7822. Liz Hofacre is coordinating. These cases are currently being coordinated with EOT. | Open | |

IRS0000001358

File 11 9 10

Tab 4 – Coordinated Processing

IRS0000001359



IRS0000001360

File 11 9 10

Tab 5 – Watch List

| | A | B | C | D | E | F | G | H |
|---|---|---|---|---|---|---|---|---|
| 1 | [redacted] | [redacted] | | [redacted] | [redacted] | [redacted] | [redacted] | |
| 2 | Open Source Software | These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. | | 1 | x | The is no specific guidance at this point. If you see a case, elevate it to your manager. | Open | |
| 3 | RHIO's | Organization's setup to electronically exchange healthcare data, called Regional Health Information Organizations (RHIOs), are requesting exemption under 501(c)(3). | | 2 | x | These cases should be transferred to EOT. | Open | |
| 4 | [redacted] | [redacted] | | [redacted] | | [redacted] | [redacted] | |
| 5 | Healthcare legislation | Per Rob Choi email dated April 20, 2010, cases impacted by the Patient Protection and Affordable Care Act (Public Law 111-148) (PPACA) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (HCERA) are being coordinated with EOT. | | 4 | 2010 - #1 | New applications are subject to secondary screening in Group 7821. Wayne Bothe is the coordinator. | Open-4/20/10 | |
| 6 | [redacted] | [redacted] | | [redacted] | | [redacted] | [redacted] | |

IRS0000001361

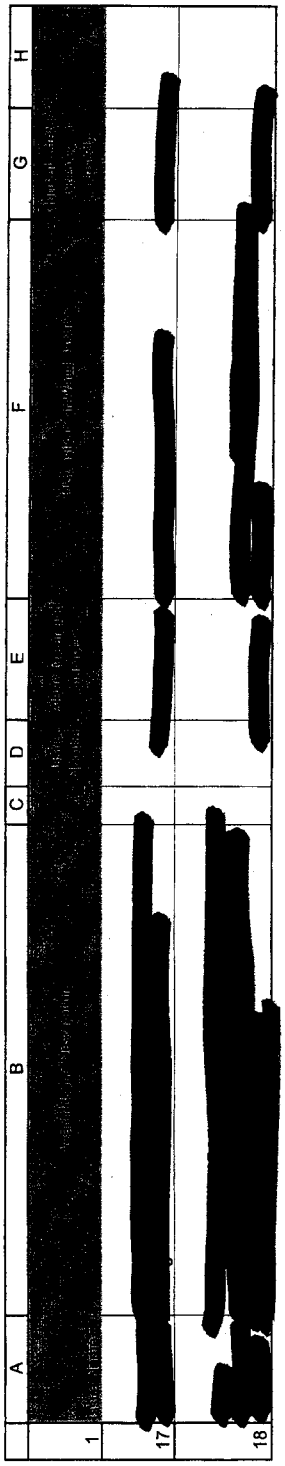
| | A | B | C | D | E | F | G | H |
|---|---|---|---|---|---|---|---|---|
| 1 | [redacted] | | | | | | | |
| 7 | [redacted] | | | | | | | |
| 8 | Medical Marijuana | Email dated 7/15/10. Look for cases involving Medical Marijuana | | 7 | 2010 - #1 | Forward cases to processing who will forward the cases to Denise Tamayo, group 7888 | Open-7-15-10 | |
| 9 | [redacted] | | | | | | | |
| 10 | [redacted] | | | | | | | |
| 11 | [redacted] | | | | | | | |

IRS0000001362

| | A | B | C | D | E | F | G | H |
|---|---|---|---|---|---|---|---|---|
| 1 | [redacted] | [redacted] | | [redacted] | [redacted] | [redacted] | [redacted] | |
| 12 | Occupied Territory Advocacy | Email dated 8/6/10. Applications deal with disputed territories in the Middle East. Examples may be organizations named or connected with [redacted] XXXX (XXXX = a particular city), [redacted] Applications may be inflammatory, advocate a one sided point of view and promotional materials may signify propaganda. | | 11 | 2010 - #1 | If you see these cases, please forward to the TAG Group, 7830. | Open- 8/6/10 | |
| 13 | [redacted] | [redacted] | | [redacted] | [redacted] | [redacted] | [redacted] | |
| 14 | Accountable Care Organization (ACO) | Email dated 8/12/10. An ACO is a an entity created by the Affordable Care Act. These consist of groups of healthcare providers (hospitals and doctors) who have entered into an agreement with Medicare to have Medicare patients assigned to them. The amounts charged to Medicare for the ACO's patients are compared to certain benchmark levels set by Medicare. Medicare pays the ACO a percentage difference of the difference as incentive to cost savings. ACO's are not required to be tax exempt. | | 13 | 2010 - #1 | These cases should be forwarded to Group 7821 | Open- 8/12/10 | |
| 15 | [redacted] | [redacted] | | [redacted] | [redacted] | [redacted] | [redacted] | |
| 16 | [redacted] | [redacted] | | [redacted] | [redacted] | [redacted] | [redacted] | |

IRS0000001363

IRS0000001364



**From:** Kindell Judith E
**Sent:** Wednesday, July 18, 2012 10:54 AM
**To:** Lerner Lois G
**Cc:** Light Sharon P
**Subject:** Bucketed cases

Of the 84 (c)(3)

cases, slightly over half appear to be conservative leaning groups based solely

on the name. The remainder do not obviously lean to either side of the

political spectrum.

Of the 199 (c)(4)

cases, approximately 3/4 appear to be conservative leaning while fewer than 10

appear to be liberal/progressive leaning groups based solely on the name.

The remainder do not obviously lean to either side of the political

spectrum.

File 112310
Tab 5 – Watch List

20101123

| | A | B | C | D | E | F | G | H |
|---|---|---|---|---|---|---|---|---|
| 1 | Issue Name | Watch Issue Description | | Issue Number | Alerts (Year and number) | Disposition of Watch Issue | Current Status (Opened or closed) | |
| 2 | Open Source Software | These organizations are requesting either 501(c)(3) or 501(c)(6) exemption in order to collaboratively develop new software. The members of these organizations are usually the for-profit business or for-profit support technicians of the software. | | 1 | x | The is no specific guidance at this point. If you see a case, elevate it to your manager. | Open | |
| 3 | RHIO's | Organization's setup to electronically exchange healthcare data, called Regional Health Information Organizations (RHIOs), are requesting exemption under 501(c)(3). | | 2 | x | These cases should be transferred to EOT. | Open | |
| 4 | [redacted] | | | [redacted] | | [redacted] | [redacted] | |
| 5 | Healthcare legislation | Per Rob Choi email dated April 20, 2010, cases impacted by the Patient Protection and Affordable Care Act (Public Law 111-148) (PPACA) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (HCERA) are being coordinated with EOT. | | 4 | 2010 - #1 | New applications are subject to secondary screening in Group 7821. Wayne Bothe is the coordinator. | Open-4/20/10 | |
| 6 | [redacted] | | | [redacted] | | [redacted] | [redacted] | |
| 7 | [redacted] | | | | | [redacted] | | |
| 8 | Medical Marijuana | Email dated 7/15/10. Look for cases involving Medical Marijuana | | 7 | 2010 - #1 | Forward cases to processing who will forward the cases to Denise Tamayo, group 7888 | Open-7-15-10 | |

- The emailed attachment outlines the overall process.
- Glenn deferred additional statements and/or questions to John Shafer on yesterday's developments; how they affect the screening process and timeline.
- Concerns can be directed to Glenn for additional research if necessary.

**Current/Political Activities:** Gary Muthert

- Discussion focused on the political activities of Tea Parties and the like-regardless of the type of application.
- If in doubt Err on the Side of Caution and transfer to 7822.
- Indicated the following names and/or titles were of interest and should be flagged for review:
  - 9/12 Project,
  - 6103
  - Progressive
  - [redacted]
  - 6103
  - Pink-Slip Program.

- Elizabeth Hofacre, Tea Party Coordinator/Reviewer
    - Re-empathize that applications with Key Names and/or Subjects should be transferred to 7822 for Secondary Screening. Activities must be primary.
    - "Progressive" applications are not considered "Tea Parties"

**Disaster Relief:** Renee Norton/Joan Kiser

- Advise audience that buzz words or phrases include:
  - "X" Rescue
  - References to the Gulf Coast, Oil Spills,
- Reminded screeners that Disaster Relief is controlled by 7838, and then forwarded to Group 7827, for Secondary Screening.
- Denied Expedites worked by initial screener:
  - Complete Expedite Denial CCR, place on left side of file.
  - Email Renee or Joan with specific reason why expedite was denied and disposition (i.e. AP, IP, 51).
  - Place Post-It on Orange Folder advising Karl
    - "Denied Expedite / Fwd to M Flammer."

**Power of Attorneys:** Nancy Heagney

- Form 2848 that references 990, 941 or the like should be
  - Printed and annotate on the bottom per procedures
  - Documentation on TEDS should be made.
    - See Interim Guidance located on Public Folders.

**Closing Sheets:** Gary Muthert

- Closing Sheets should not cover pertinent info on the AIS sheet or EDS' 8327.
- Case Grade and Data (e.g. NTEEs) must be correctly presented and accurately depict the case's complexity and purpose.
  - Inaccurate presentations create processing delays.
  - Steve Bowling, Mgr 7822 "Volumes of cases are graded incorrectly."
  - EDS and TEDS must Agree to achieve desire business results

**Credit Counseling (CC)**

Stephen Seok

- Re-stressed impact that section 501(q) had on purely educational cases.
  - Cases are fully developed as 501(q) Credit Counseling Cases.
  - Key analysis is whether financial education and/or counseling activities are "substantial".
  - Cases with financial education and/or financial counseling- substantial or insubstantial are still subject to Secondary Screening until further notice.
  - Continue to document the analysis as "Substantial" or "Insubstantial" on the CC Check-sheet.
  - Feedback on cases received is in process.

**TAG**

Jon Waddell

- The New List will be completed and issued this week- approximately 7/30/10.
- Sharing a Drive on the Server has created the delay/dilemma.
- Monthly Emails will restart shortly after the List's distribution.
- Listing will include the following:
  - Touch and Go, Emerging Issues and Issues to Watch For.
  - [redacted] 6103 Cases* (Puerto Rico based low-income housing) are considered "Potential Abusive Cases".
  - [redacted] 6103 Cases (Las Vegas, NV) should continue to be sent to TAG Group for re-screening

  *LCD referrals are in process since both have questionable practices.

INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

June 26, 2013

The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515-6348

Dear Representative Levin:

This letter is in response to letters dated June 24, 2013 and June 26, 2013 regarding our recent audit report entitled "Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review." We appreciate the opportunity to clarify our recent report in response to your questions.

TIGTA's audit report focused on criteria being used by the Internal Revenue Service (IRS) during the period of May 2010 through May 2012 regarding allegations that certain groups applying for tax-exempt status were being targeted. We reviewed all cases that the IRS identified as potential political cases and did not limit our audit to allegations related to the Tea Party. TIGTA concluded that inappropriate criteria were used to identify potential political cases for extra scrutiny – specifically, the criteria listed in our audit report. From our audit work, we did not find evidence that the criteria you identified, labeled "Progressives," were used by the IRS to select potential political cases during the 2010 to 2012 timeframe we audited. The "Progressives" criteria appeared on a section of the "Be On the Look Out" (BOLO) spreadsheet labeled "Historical," and, unlike other BOLO entries, did not include instructions on how to refer cases that met the criteria. While we have multiple sources of information corroborating the use of Tea Party and other related criteria we described in our report, including employee interviews, e-mails, and other documents, we found no indication in any of these other materials that "Progressives" was a term used to refer cases for scrutiny for political campaign intervention.

Based on the information you flagged regarding the existence of a "Progressives" entry on BOLO lists, TIGTA performed additional research which determined that six tax-exempt applications filed between May 2010 and May 2012 having the words "progress" or "progressive" in their names were included in the 298 cases the IRS identified as potential political cases. We also determined that 14 tax-exempt applications filed between May 2010 and May 2012 using the words "progress" or "progressive" in their names were not referred for added scrutiny as potential political cases. In total, 30 percent of the organizations we identified with the words "progress" or "progressive" in their names were processed as potential political cases. In

comparison, our audit found that 100 percent of the tax-exempt applications with Tea Party, Patriots, or 9/12 in their names were processed as potential political cases during the timeframe of our audit.

The following addresses the specific questions presented in your June 24, 2013 letter:

- Please describe in detail why your report dated May 14, 2013 omitted the fact that "Progressives" was used.

  Our audit did not find evidence that the IRS used the "Progressives" identifier as selection criteria for potential political cases between May 2010 and May 2012. The focus of our audit was on whether the IRS: 1) targeted specific groups applying for tax-exempt status, 2) delayed processing of targeted groups' applications, and 3) requested unnecessary information from targeted groups. We determined the IRS developed and used inappropriate criteria to identify applications from organizations with the words Tea Party in their names. In addition, we found other inappropriate criteria that were used (e.g., 9/12, Patriots) to select potential political cases that were not included in any BOLO listings. The inappropriate criteria used to select potential political cases for review did not include the term "Progressives." The term "Progressives" appears, beginning in August 2010, in a separate section of the BOLO listings that was labeled "TAG [Touch and Go] Historical" or "Potential Abusive Historical." The Touch and Go group within the Exempt Organizations function Determinations Unit is a different group of specialists than the team of specialists that was processing potential political cases related to the allegations we audited.

- Did you investigate whether the criteria "Progressives" in the BOLO lists was developed in the same manner as you did for "Tea Party"? If not, why?

  TIGTA did not audit how the criteria for the "Progressives" identifier were developed in the BOLO listings. We did not audit these criteria because it appeared in a separate section of the BOLO listings labeled as "Historical" (as described above) and we did not have indications or other evidence that it was in use for selecting potential political cases from May 2010 to May 2012.

- Please also explain why footnote 16 on page 6 was included in the audit report.

  Footnote 16 was included in our report because TIGTA was aware of other named organizations being on BOLO listings that were not used for selecting cases related to political campaign intervention. TIGTA added this footnote to disclose that we did not audit whether the use of the other named organizations was appropriate. Following the publication of our audit report, we communicated information

regarding other names on the BOLO listings to Acting Commissioner Daniel Werfel, and, to the extent authorized by Title 26 U.S.C. § 6103, the Senate Committee on Finance and the House Committee on Ways and Means.

- If your organization overlooked the existence of the "Progressives" identifier, please describe in detail the process by which your organization investigated the BOLO lists created and circulated by the EO Determinations Unit.

  As part of our audit, we reviewed the section of the BOLO listings that related to the specific criteria that the IRS stated were used to identify potential political cases for additional scrutiny. TIGTA also found that certain criteria (e.g., Patriots, 9/12, education of the public by advocacy/lobbying to "make America a better place to live," etc.) used to select potential political cases were not in any BOLO listings.

- Your report states that TIGTA "reviewed all 298 applications that had been identified as potential political cases as of May 31, 2012." (See page 10 of your report.) Your report includes the following breakdown of the potential political cases by organization name: (1) 96 were "Tea Party," "9/12," or "Patriots" organizations; and (2) 202 were "Other." Why did your report not identify that liberal organizations were also included among the 298 applications you reviewed?

  TIGTA did not make any characterizations of any organizations in its audit report as conservative or liberal and believes it would be inappropriate for a nonpartisan Inspector General to make such judgments. Instead, our audit focused on the testing of 296 of the 298 potential political cases (two case files were incomplete) to determine if they were selected using the actual criteria that should have been used by the IRS from the beginning to screen potential political cases. Those criteria were whether the specific applications had indications of significant amounts of political campaign intervention (a term used in Treasury's Regulations). For 69 percent of the 296 cases, TIGTA found that there were indications of significant political campaign intervention, while 31 percent of the cases did not have that evidence. We also reviewed samples of 501 (c)(4) cases that were not identified as potential political cases to determine if they should have been. We estimate that more than 175 applications were not appropriately identified as potential political cases.

  TIGTA's audit report determined that certain cases were referred for potential political review because their names used terms in the IRS selection criteria. We could not tell why other organizations were selected for additional scrutiny because the IRS did not document specifically why the cases were forwarded to a team of specialists. TIGTA recommended that the IRS do so in the future.

- Why did your testimony before the Committee on Ways and Means, the Oversight and Government Reform Committee, and the Senate Finance Committee not include a discussion of this aspect of the 298 applications?

  When I testified, I attempted to convey that our report did not characterize organizations as conservative or liberal and I believe it would be inappropriate for a nonpartisan Inspector General to make such judgments.

- In the course of your audit, what did you discover about the processing of cases with the "Progressives" identifier? Were the cases processed in the same manner as the cases with the "Tea Party" and associated terms identifiers? Or were they processed differently?

  TIGTA's audit did not review how TAG Historical cases (including the "Progressives" identifier) were processed because we did not find evidence that the IRS used the TAG Historical section of the BOLO listings as selection criteria for potential political cases between May 2010 and May 2012.

- If you are now auditing or investigating the processing of tax-exemption applications with the "Progressives" identifier, please provide the date that you started the audit or investigation and documentation to support this assertion. We also would like to know if you have briefed and alerted anyone at the IRS or Department of Treasury of such audit or investigation.

  TIGTA's Office of Audit made a referral to our Office of Investigations on May 28, 2013 stating that our recently issued audit report noted the use of other named organizations on the BOLO listings that were not related to potential political cases reviewed as part of our audit. TIGTA's Office of Audit requested the Office of Investigations investigate to determine: 1) whether cases meeting the criteria on the "watch list" [a particular section of the BOLO listings] were routed for any additional or specialized review, or were simply referred to the same group for coordinated processing; 2) how many (if any) applications were affected by use of these criteria; 3) who was responsible for the inclusion of these criteria on the BOLO lists; and 4) whether these criteria were added to the BOLO for an improper purpose.

  TIGTA also discussed the BOLO listings with the Acting Commissioner of the IRS on May 28, 2013, and expressed our concerns and the importance of the IRS following up on this matter. We notified the Acting Commissioner of our review of this matter on that date. In addition, I informed the Department of the Treasury's Chief of Staff and General Counsel about this matter.

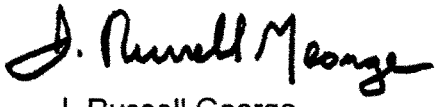
Pursuant to authorization under Title 26 U.S.C. § 6103, we also provided these BOLO listings to House Ways and Means Committee Majority staff and the Senate Finance Committee Majority and Minority staff on June 7, 2013. We spoke to staff from House Ways and Means Committee Majority staff on the BOLOs on June 6 and June 11, 2013, and Senate Finance Committee Majority and Minority staff on June 10, 2013. We informed the staff we met with of our ongoing review of this matter.

Because of Privacy Act and Title 26 U.S.C. § 6103 restrictions, TIGTA cannot comment specifically on the status of any ongoing investigation. TIGTA will continue its efforts to provide independent oversight of IRS activities and accomplish its statutory mission through audits, inspections and evaluations, and investigations of criminal and administrative misconduct.

In your June 26, 2013 letter, you raised concerns about statements attributed to TIGTA sources by members of the media. Many of the press reports are not accurate. Please rely on our statements in this letter, my testimony, and our published materials for an accurate portrayal of our position.

We hope this information is helpful. If you or your staff has any questions, please contact me at 202-[redacted] or Acting Deputy Inspector General for Audit Michael E. McKenney at 202-[redacted].

Sincerely,



J. Russell George
Inspector General

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUN 24 2013

June 24, 2013

The Honorable Darrell Edward Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am responding to your request for documents relating to the screening and review process for applicants for tax-exempt status. I am providing copies of "Be on the Lookout" (BOLO) spreadsheets from which IRC section 6103 information has been redacted.

We are committed to providing you with as full a response as possible and to full cooperation with you and your staff to address this matter.

Our efforts to gather documents related to the TIGTA report 2013-10-053, dated May 14, 2013, are ongoing. These documents are being produced from the set that been reviewed to date. To the extent our continuing searches reveal additional BOLO lists responsive to your request, we will provide them.

The attached documents are indexed by Bates stamped numbers IRS0000001349 to IRS0000001537 and numbers IRS0000002479-IRS0000002591 and numbers IRS0000002705 to IRS0000002717.

I hope this information is helpful. If you have questions, please contact me or have your staff contact me at 202-[redacted].

Sincerely,

Leonard Oursler
Area Director

# Testimony of Carter Hull
## Tax Law Specialist in EO Technical Unit
June 14, 2013

Q. Okay. Now, sir, in this period, roughly March of 2010, was there a time when someone in the IRS told you that you would be assigned to work on two Tea Party cases? 23

A. Yes.

***

Q. Do you recall when precisely you were told that you would be assigned two Tea Party cases?

A. When precisely, no.

Q. Sometime in –

A. Sometime in the area, but I did get, they were assigned to me in April.

***

Q. Okay, and just to be clear, April of 2010?

A. Yes.

***

Q. And sir, were they cases 501(c)(3)s, or 501(c)(4)s?

A. One was a 501(c)(3), and one was a 501(c)(4).

Q. So one of each?

A. One of each.

Q. What, to your knowledge, was it intentional that you were sent one of each?

A. Yes.

Q. Why was that?

A. I'm not sure exactly why. I can only make assumptions, but those are the two areas that
usually had political possibilities.

***

Q. The point of my question was, no one ever explained to you that you were to understand and work these cases for the purpose of working similar cases in the future?

***

A. All right, I -- I was given -- they were going to be test cases to find out how we approached (c)(4), and (c)(3) with regards to political activities.

***

Q. Mr. Hull, before we broke, you were talking about these two cases being test cases, is that right? Do you recall that?

A. I realized that there were other cases. I had no idea how many, but there were other cases. And they were trying to find out how we should approach these organizations, and how we should handle them.

***

Q. And when you say these organizations, you mean Tea Party organizations?

A. The two organizations that I had.

# Testimony of Carter Hull
## Tax Law Specialist in EO Technical Unit
### June 14, 2013

Q. Did you send out letters to both organizations the 501(c)(3) and 501(c)(4)?

A. I did.

Q. Did you get responses from both organizations?

A. I got response from only one organization.

Q. Which one?

A. The (c)(4).

Q. (C)(4). What did you do with the case that did not respond?

A. I tried to contact them to find out whether they were going to submit anything.

Q. By telephone?

A. By telephone. And I never got a reply.

Q. Then what did you do with the case?

A. I closed it, failure to establish.

***

Q. So at this time, when the (c)(3) became the FTE, did you begin to work only on the (c)(4)?

A. I notified my supervisor that I would need another (c)(3) if they wanted me to work one of each.

***

Q. How did you phrase the request to Ms. Hofacre? Was it -- were you asking for another (c)(3) Tea Party application?

A. I was asking for another (c)(3) application in the lines of the first one that she had sent up. I'm not sure if I asked her for a particular organization or a particular type of organization. I needed a (c)(3) that was maybe involved in political activities.

Q. And the first (c)(3), it was a Tea Party application?

A . Yes, it was.

# Testimony of Elizabeth Hofacre
## Revenue Agent in Determinations Unit
## May 31, 2013

Q. And you mentioned the Tea Party cases. Do you have an understanding of whether the Tea Party cases were part of that grouping of organizations with political activity, or were they separate?

A. That was the group of political cases.

Q. So why do you call them Tea Parties if it includes more than –

A. Well, at that time that's all they were. That's all that we were -- that's how we were classifying them.

Q. In 2010, you were classifying any organization that had political activity as a Tea Party?

A. No, it's the latter. I mean, we were looking at Tea Parties. I mean, political is too broad.

Q. What do you mean when you say political is too broad?

A. No, because when -- what do you mean by "political"?

Q. Political activity -- if an application has an indication of political activity in it.

A. I mean, I was tasked with Tea Party, so that's all I'm aware of. So I wasn't tasked with political in general.

Q. Was there somebody who was tasked with political in general?

A. Not that I'm aware of.

# Testimony of Ron Bell
## Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. Okay. So at this point between October 2010 and July 2011, were all the Tea Party cases going to you?

A. Correct.

Q. And to your knowledge, during this same time period, was it only Tea Party cases that were being assigned to you or were there other advocacy cases that were part of this group?

***

A. Does that include 9/12 and Patriot?

Q. Yes, yes.

A. Yes.

Q. Okay. So it was just those type of cases, not other type of advocacy cases that maybe had a different -- a different political -- a liberal or progressive case?

A. Correct.

***

Q. Okay. And to your knowledge, when you were first assigned these cases in October 2010 and through July 2011, do you know what criteria the screening unit was using to identify the cases to send to you?

A. Yes.

Q. And what was that criteria?

A. It was solicited on the Emerging Issues tab of the BOLO report.

Q. And what did that say? What did that Emerging Issue tab on the BOLO say?

A. In July 20 –

Q. In October 2010 we'll start.

A. I don't know exactly what it said, but it just -- Tea Party cases, 9/12, Patriot.

Q. And do you recall how many cases you inherited from Ms. Hofacre?

A. 50 to 100.

Q. And were those only Tea Party-type cases as well?

A. To the best of my knowledge.

# Testimony of Carter Hull
## Tax Law Specialist in EO Technical Unit
June 14, 2013

A. I'm not sure who mentioned Tea Party, but at that point Lois I remember breaking in and saying no, no, we don't refer to those as Tea Parties anymore. They are advocacy organizations.

Q. And what was her tone when saying that?

A. Very firm.

Q. Did she explain why she wanted to change the reference?

A. She said that the Tea Party was just too pejorative.

# Testimony of Ron Bell
## Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. And do you recall when that – when the BOLO was changed after – you said it was after the meeting [with Lerner], they changed the BOLO after the meeting, do you recall when?

A. July.

Q. Of 2011?

A. Yes, sir.

Q. And you were going to say the BOLO became more, and then you were cut off. What were you going to say?

A. It became more – they had more the advocacy, more organizations to the advocacy, like I mentioned about maybe a cat rescue that's advocating for let's not kill the cats that get picked up by the local government in whatever cities.

# Testimony of Ron Bell
## Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. Mr. Bell, in July 2011, when the BOLO was changed where they chose broad language, after that point, did you conduct secondary screening on any of the cases that were being held by you?

A. You mean the cases that I inherited from Liz are the ones that had already been put into the whatever timeframe, Tea Party advocacy, slash advocacy?

Q. Other type, yes.

A. No, these were new ones coming in that someone thought that they perhaps should be in the advocacy, slash, Tea Party inventory.

Q. Okay.

A. They were assigned to Group 7822, and I reviewed them, and you know, maybe some were, but a vast majority was like outside the realm we were looking for.

Q. And so they were like the . . . cat type cases you were discussing earlier?

A. Yes.

***

Q. After the July 2011 change to the BOLO, how long did you perform the secondary screening?

A. Up until July 2012.

Q. So, for a whole year?

A. Yeah.

Q. And you would look at the cases and see if they were not a Tea Party case, you would move that either to closing or to further development?

A. Yeah, and then the BOLO changed about midway through that timeframe.

Q. Okay.

A. To make it where we put the note on there that we don't need the general advocacy.

Q. And after the BOLO changed in January 2012, did that affect your secondary screening process?

A. There was less cases to be reviewed.

Q. Okay. So during this whole year, the Tea Party cases remained on hold pending guidance from Washington while the other cases that you identified as non-Tea Party cases were moved to either closure or further development; is that right?

A. Correct.

# Testimony of Michael Seto
## Manager of EO Technical Unit
## July 11, 2013

Q. -- about the cases? What about Miss Lerner, did you ever talk to Miss Lois Lerner about the cases at this point in time, January-February 2011?

A. No, I have not talked to her verbally about it.

Q. But did you talk to her nonverbally about these cases in that period of time?

A. She sent me email saying that when these cases need to go through multi-tier review and they will eventually have to go to Miss Kindell and the chief counsel's office.

Q. Miss Lerner told you this in an email?

A. That's my recollection.

# Testimony of Carter Hull
## Tax Law Specialist in EO Technical Unit
## June 14, 2013

Q. Have you ever sent a case to Ms. Kindell before?

A. Not to my knowledge.

Q. This is the only case you remember?

A. Uh-huh.

Q. Correct?

A. This is the only case I remember sending directly to Judy.

***

Q. Had you ever sent a case to the Chief Counsel's office before?

A. I can't recall offhand.

Q. You can't recall. So in your 48 years of experience with the IRS, you don't recall sending a case to Ms. Kindell or a case to IRS Chief Counsel's office?

A. To Ms. Kindell, I don't recall ever sending a case before. To Chief Counsel, I am sure some cases went up there, but I can't give you those.

Q. Sitting here today you don't remember?

A. I don't remember.

# Testimony of Ron Bell
## Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. So did you see something different in these Tea Party cases applying for 501(c)(4) status that was different from other organizations that had political activity, political engagement applying for 501(c)(4) status in the past?

A. I'm not sure if I understand that.

Q. I guess what I'm getting at is you said you had seen previous applications from an organization applying for 501(c)(4) status that had some level of political engagement, and these Tea Party groups are also applying for 501(c)(4) status and they have some level of political engagement. Was there any difference in your mind between the Tea Party groups and the other groups that you'd seen in your experience at the IRS?

A. No.

Q. So, do you think that Tea Party groups are treated the same as these other groups from your previous experience?

A. No.

***

Q. In your experience, was there anything different about the way that the Tea Party 501(c)(4) cases were treated that was as opposed to the previous 501(c)(4) applications that had some level of political engagement?

A. Yes.

Q. And what was different?

A. Well, they were segregated. They seemed to have been more scrutinized. I hadn't interacted with EO technical [in] Washington on cases really before.

Q. You had not?

A. Well, not a whole group of cases.

# Testimony of Stephen Seok
## Group Manager of EO Determinations Unit
June 19, 2013

Q. And to your knowledge, the cases that you worked on, was there anything different or novel about the activities of the Tea Party cases compared to other (c)(4) cases you had seen before?

***

A. Normal (c)(4) cases we must develop the concept of social welfare, such as the community newspapers, or the poor, that types. These organizations mostly concentrate on their activities on the limiting government, limiting government role, or reducing government size, or paying less tax. I think it[']s different from the other social welfare organizations which are (c)(4).

***

Q. So the difference between the applications that you just described, the applications for folks that wanted to limit government, limit the role of government, the difference between those applications and the (c)(4) applications with political activity that you had worked in the past, was the nature of their ideology, or perspective, is that right?

A. Yeah, I think that's a fair statement. But still, previously, I could work, I could work this type of organization, applied as a (c)(4), that's possible, though. Not exactly Tea Party, or 9-12, but dealing with the political ideology, that's possible, yes.

Q. So you may have in the past worked on applications from (c)(4), applicants seeking (c)(4) status that expressed a concern in ideology, but those applications were not treated or processed the same way that the Tea Party cases that we have been talking about today were processed, is that right?

A. Right. Because that [was] way before these – these organizations were put together. So that's way before. If I worked those cases, way before this list is on.

# Testimony of Robert Choi
## Former Director of IRS Rulings and Agreements
August 21, 2013

Q. You said earlier in the last hour there was email traffic about the ACORN successor groups in 2010; is that right?

A. That's correct, yes.

Q. But the ACORN successor groups were not subject to a sensitive case report; is that right?

A. I don't recall if they were listed in there, in the sensitive case report.

Q. So you don't recall them being part of a sensitive case report?

A. I think what I'm saying is they may be part of a sensitive case report. I do not have a specific recollection that they were listed in a sensitive case report.

Q. But you do have a specific recollection that the Tea Party cases were on sensitive case reports in 2010.

A. Yes.

Q. To your knowledge, did any ACORN successor application go to the Chief Counsel's Office?

A. I am not aware of it.

Q. Are you aware of any ACORN successor groups facing application delays?

A. I do not know if – well, when you say "delays," how do you –

Q. Well –

A. I mean, I'm aware of successor ACORN applications coming in, and I am aware of email traffic that talked about my concern of delays on those cases and, you know, that there was discussion about seeing an influx of these applications which appear to be related to the previous organization.

***

Q. And the concern behind the reason that they weren't being processed was that they were potentially the same organization that had been denied previously?

A. Not that they were denied previously. These appeared to be successor organizations, meaning these were newly formed organizations with a new EIN, employer identification number, located at the same address as the previous organization and, in some instances, with the same officers.

And it was an issue of concern as to whether or not these were, in fact, the same organizations just coming in under a new name; whether, in fact, the previous organizations, if they were, for example, 501(c)(3) organizations, properly disposed of their assets. Did they transfer it to this new organization? Was this perhaps an abusive scheme by these organizations to say that they went out of business and then not really but they just carried on under a different name?

Q. And that's the reason they were held up?

A. Yes.

# Testimony of Lucinda Thomas
## Program Manager of EO Determinations Unit
## June 28, 2013

Q. Ms. Thomas, is this an example of the BOLO from looks like November 2010?

A. I don't know if it was from November of 2010, but –

Q. This is an example of the BOLO, though?

A. Yes.

Q. Okay. And, ma'am, under what has been labeled as tab 2, TAG Historical?

A. Yes.

***

Q. Let's turn to page 1354.

A. Okay.

Q. Do you see that, it says -- the entry says progressive?

A. Yes.

Q. This is under TAG Historical, is that right?

A. Yes.

Q. So this is an issue that hadn't come up for a while, is that right?

A. Right.

Q. And it doesn't note that these were referred anywhere, is that correct? What happened with these cases?

A. This would have been on our group as – because of – remember I was saying it was consistency-type cases, so it's not necessarily a potential fraud or abuse or terrorist issue, but any cases that were dealing with these types of issues would have been worked by our TAG group.

Q. Okay. And were they worked any different from any other cases that EO Determinations had?

A. No. They would have just been worked consistently by one group of agents.

Q. Okay. And were they cases sent to Washington?

A. I'm not – I don't know.

Q. Not that you are aware?

A. I'm not aware of that.

Q. As the head of the Cincinnati office you were never aware that these cases were sent to Washington?

A. There could be cases that are transferred to the Washington office according to, like, our [Internal Revenue Manual] section. I mean, there's a lot of cases that are processed, and I don't know what happens to every one of them.

Q. Sure. But these cases identified as progressive as a whole were never sent to Washington?

A. Not as a whole.

# Testimony of Elizabeth Hofacre
## Revenue Agent in EO Determinations Unit
May 31, 2013

Q. In 2010, you were classifying any organization that had political activity as a Tea Party?

A. No, it's the latter. I mean, we were looking at Tea Parties. I mean, political is too broad.

Q. What do you mean when you say political is too broad?

A. No, because when -- what do you mean by "political"?

Q. Political activity -- if an application has an indication of political activity in it.

A. I mean, I was tasked with Tea Party, so that's all I'm aware of. So I wasn't tasked with political in general.

Q. Was there somebody who was tasked with political in general?

A. Not that I'm aware of.

# Testimony of Steven Grodnitzky
## Manager in EO Technical Unit
## July 16, 2013

Q. So these Democratic-leaning organizations, their applications took approximately 3 years to process?

A. On or around. I mean, if they came in at the end of 2008, for example, and were resolved in the beginning of 2011, it may be a little over 2 years. But I mean, on or around that time period.

***

Q. Did those 2008 Democratic-leaning applications involve potential political campaign activity as well?

A. Yes, we had -- the organizations were related in the sense that they were -- how can I say this? -- sort of like an -- I am going to call it, for lack of a better term, like when you have in a veterans-type organization, you have posts, and there is one in each State. And that is sort of what it was like. So they were very similar in the sense that the main difference that I recall was that they were just from one State to the next. And we found in those particular cases that the organization was benefiting the Democratic Party, and there was too much private benefit to that particular party. And the organization was denied.

# Testimony of Amy Franklin Giuliano
## Attorney Advisor in IRS Chief Counsel's Office
August 9, 2013

Q. And you said that some of those five progressive applications were approved in a matter of hours; is that right?

A. Yes.

***

Q. The reason that the other five cases would be revoked if that case the Counsel's Office had was denied, was that because they were affiliated entities?

A. It is because they were essentially the same organization. I mean, every – the applications all presented basically identical facts and basically identical activities.

Q. And the groups themselves were affiliated.

A. And the groups themselves were affiliated, yes.

***

Q. The issue in the case you reviewed in May of 2010 was private benefit.

A. Yes.

Q. As opposed to campaign intervention.

A. We considered whether political campaign intervention would apply, and we decided it did not.

# Testimony of Sharon Light
## Senior Technical Advisor
### September 5, 2013

Q Were you aware that there was an entry for Occupy organizations in the BOLO by the May 2012 time frame?

A I don't think I was. My understanding of Determinations at that point was if you saw an organization or issue that you thought Determinations should be on the watch for, you would -- I would send an email to Cindy and say, hey, can you tell your screeners to keep an eye out for this, so it didn't slip through and get approved without someone looking at it.

Q Did you become aware of the entry on the BOLO for Occupy organizations at a later date?

A Yes, I did at some point.

Q And why did you become aware of the entry on the BOLO for the Occupy organizations -- or, rather, how?

A I believe I became aware of it the summer after it hit the news that groups were -- well, I became aware of it after it was reported that only conservative groups were being singled out by the IRS.

# Testimony of Joseph Grant
## Commissioner, Tax Exempt and Government Entities
September 25, 2013

Q Were you aware that for a period of time the IRS also specifically referenced "Occupy" on a BOLO?

A I subsequently became aware of that. I was not aware of that at the time.

# Testimony of Nancy Marks
## Senior Technical Advisor to the Commissioner, Tax Exempt and Government Entities
## October 8, 2013

Q Were you aware in the spring 2012 timeframe that there was a "Be on the Look Out" list entry specifically identifying Occupy groups by name?

A I don't think I knew that in the spring of 2012. At some point, I became aware that that was one of the things on the "Be on the Look Out" list.

# Testimony of Elizabeth Kastenburg
## Tax Law Specialist in EO Technical Unit
July 31, 2013

Q. Do you recall if progressive or Occupy groups were among those listed on the BOLO?

A. No, I don't know.

Q. Do you know how Occupy groups, as in Occupy Wall Street groups, were processed by the IRS?

A. No, I do not know.

# Testimony of Justin Lowe
## Technical Advisor, Tax Exempt and Government Entities
July 23, 2013

Q. ...Do you recall whether as a tax law specialist in EO Guidance you referred cases related to Occupy organizations?

A. It's a pretty broad descriptor, so I don't know exactly. I don't think so, but I couldn't tell you definitively one way or the other...

# Testimony of Ron Bell
## Exempt Organizations Specialist in Determinations Unit
June 13, 2013

Q. Okay. And is it normal procedure for EO Technical to have to -- for you -- for you to have to wait for approval from EO Technical to move these cases?

A. Not in my personal experience.

Q. Okay. So this was something that was unusual that you were having to wait on Washington?

A. In -- from -- in my experience.

Q. In your experience. Okay.

# Testimony of Steven Grodnitzky
## Manager in EO Technical Unit
July 16, 2013

Q. Is it fair to say that those Democratic organizations that were grouped together in the 2008 time frame were treated similarly to the Tea Party cases that you saw in the 2010 time frame?

A. Sure. I mean, it is fair to say that they were treated similarly. It is -- there were fewer of them. Unlike the Tea Party, my understanding is that there are more -- as far as quantity there is more of them.

# Testimony of Amy Franklin Giuliano
## Attorney Advisor in IRS Chief Counsel's Office
## August 9, 2013

Q. Did you ever speak to Mr. Griffin about these cases around the time they were assigned to you, or the one assigned to you?

A. Yes. He handed the case that was assigned to me to me directly.

Q. And what did he say to you?

A. He said, "This is a (c)(4) case that presents the question of political advocacy. It seems to be conservative-leaning."

***

Q. Prior to you receiving this case in June of 2011, do you know if it was worked by IRS officials in Washington?

A. Yes. On top of the case file were three memos, all by D.C. employees.

Q. Who were the memos from?

A. Janet Gitterman, Siri Buller, and Justin Lowe.

Q. And what was the substance of these memos?

A. The memo from Janet was first because I believe she was, sort of, their docket attorney. I don't know what they call it. And she explained that she had looked through the file, that some of the ads seemed to verge on political campaign intervention, and it wasn't an election year. She raised that the group leased space from a Republican group. But she said that it seemed that the amount of political activity did not preclude exemption.

There was a memo from Siri Buller as sort of a concurring -- I think she was kind of asked to review what Janet had done. And Siri's

memo is much longer and listed about 15 instances of what could be considered political campaign intervention and said that there is political campaign intervention here but maybe not enough to preclude exemption.

And then Justin Lowe had about a one-page memo that sort of said, you know, the ads seem to be propaganda, they don't seem to be informative, but not sure that that's a reason to deny, so I concur.

Q. So all three of them, Ms. Gitterman, Ms. Buller, and Mr. Lowe, all concurred in the recommendation to approve exemption?

A. Yes.

Q. And Ms. Gitterman and Ms. Buller, are they in EO Technical, do you know?

A. I don't know. It's either Technical or Guidance, and I don't really understand the difference.

***

Q. So, you're aware of some coordination between EO Technical or EO Guidance and Cincinnati regarding the treatment of this group of progressive cases?

A. Yes. I mean, I was aware of it because I knew that enough communication had happened to get three like cases to one person in D.C.

Q. And it sounded like there was concern about the way the cases had been developed in Cincinnati; is that fair?

A. I think there was concern that -- that a -- yeah. That it looked like maybe they should be denials, yet already the five favorables had gone out. There was a concern that we were going to be treating the taxpayers inconsistently.

***

Q. In this case, the -- did you state that the ultimate outcome was a recommendation for denial?

A. Yes, that was our recommendation.

KERRY W. KIRCHER
GENERAL COUNSEL

WILLIAM PITTARD
DEPUTY GENERAL COUNSEL

TODD B. TATELMAN
ASSISTANT COUNSEL

MARY BETH WALKER
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**MEMORANDUM**

**TO:** **Honorable Darrell E. Issa, Chairman**
**Committee on Oversight and Government Reform**

**Stephen Castor, General Counsel**
**Committee on Oversight and Government Reform**

**FROM:** **Office of General Counsel**
**United States House of Representatives**

**DATE:** **March 25, 2014**

**RE:** **Lois Lerner and the Rosenberg Memorandum**

You advised us that the Committee on Oversight and Government Reform ("Oversight Committee" or "Committee") may consider a resolution recommending that the full House hold former Internal Revenue Service ("IRS") employee Lois G. Lerner in contempt of Congress for refusing to answer questions at a Committee hearing that began on May 22, 2013, and continued on March 5, 2014.

To assist you in determining whether the Committee should take up such a resolution, and to assist Committee Members (who, we understand, will be privy to the contents of this memorandum) in determining how to proceed if such a resolution is taken up, you asked that we analyze a March 12, 2014 memorandum, prepared by former Congressional Research Service ("CRS") attorney Morton Rosenberg. That memorandum concludes that "the requisite legal foundation for a criminal contempt of Congress prosecution mandated by the Supreme Court

rulings in [*Quinn v. United States*, 349 U.S. 155 (1955), *Emspak v. United States*, 349 U.S. 190 (1955), and *Bart v. United States*, 349 U.S. 219 (1955)] ha[s] not been met" as to Ms. Lerner. Mem. from Morton Rosenberg, Leg. Consultant, to Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight & Gov't Reform at 4 (Mar. 12, 2014) ("Rosenberg Memorandum"), attached to Letter from Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight & Gov't Reform, to Hon. John Boehner, Speaker (Mar. 12, 2014).

By "criminal contempt of Congress prosecution," Mr. Rosenberg presumably means the approval of a resolution of contempt by the full House, followed by a referral to the United States Attorney for the District of Columbia pursuant to 2 U.S.C. § 194, followed by an indictment and prosecution pursuant to 2 U.S.C. § 192 for "refus[al] to answer . . . question[s] pertinent to the" Committee's investigation. If so, we agree with Mr. Rosenberg that the *Quinn* trilogy of cases articulates a key legal standard that underlies the viability of such a prosecution. However, we disagree with his conclusion that that standard has not been satisfied here.

The question, in brief, is whether Ms. Lerner was "clearly apprised that the [C]ommittee demand[ed] [her] answer[s] [to its questions] notwithstanding h[er Fifth Amendment] objections." *Quinn*, 349 U.S. at 166. Based on our review of the record, we believe Ms. Lerner clearly was so apprised for two independent reasons. *First*, the Committee formally rejected her Fifth Amendment claims and expressly advised her of its determination (a fact that she, through her attorney, acknowledged prior to her appearance at the reconvened hearing on March 5, 2014). *Second*, the Committee Chairman thereafter advised Ms. Lerner in writing that the Committee expected her to answer its questions, and advised her orally, at the reconvened hearing on March 5, 2014, that she faced the possibility of being held in contempt of Congress if she continued to decline to provide answers.

We now explain our reasoning in more detail.

**PERTINENT FACTUAL BACKGROUND**

The underlying Oversight Committee investigation concerns allegations that the IRS subjected organizations applying for tax-exempt status to differing degrees of scrutiny, and/or applied to them differing standards of approval, depending on the political orientation of the organizations. From the outset, Ms. Lerner, who at all pertinent times was the Director of the Exempt Organizations Division of the IRS' Tax Exempt and Government Entities Division, was a central figure in the investigation.[1]

Ms. Lerner, accompanied by her experienced personal counsel,[2] appeared at the Oversight Committee's May 22, 2013 hearing session pursuant to a Committee subpoena which commanded her to "appear" and "**to testify**." Subpoena to Lois Lerner (May 17, 2013) ("Subpoena"). After being sworn, Ms. Lerner voluntarily made a lengthy statement in which she effectively testified about a number of matters, including (i) the fact that she was a lawyer and had practiced law at the Department of Justice ("DOJ") and the Federal Election Commission; (ii) her experience with the IRS, including, in particular, the Exempt Organizations Division; (iii) a May 14, 2013 Treasury Inspector General for Tax Administration ("TIGTA") report which concerned issues similar to those being investigated by the Committee and which criticized the Exempt Organizations Division headed by Ms. Lerner, *see* Treasury Inspector Gen. for Tax

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[1] According to press reports, Ms. Lerner retired from government service, effective September 23, 2013. *See, e.g.*, John D. McKinnon, *Lois Lerner, at Center of IRS Investigation, Retires*, Wall St. J., Sept. 23, 2013, *available at* http://online.wsj.com/news/articles/SB10001424052702304713704579093461064758006.

[2] Ms. Lerner's counsel, William W. Taylor, III, is a senior partner with Zuckerman Spaeder, a Washington, D.C.-based law firm. He is a seasoned white-collar criminal defense attorney and has prior experience, dating back to the 1980s, representing clients before congressional committees. *See* Zuckerman Spaeder LLP, William W. Taylor, III, http://www.zuckerman.com/william_taylor (last visited Mar. 25, 2014).

Admin., *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review*, Ref. No. 2013-10-053 (May 14, 2013), *available at* http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf; (iv) DOJ's investigation into the same matters being investigated by TIGTA; and (v) her asserted innocence: "I have done nothing wrong. I have not broken any laws. I have not violated any IRS rules or regulations, and I have not provided false information to this or any other congressional committee." *The IRS: Targeting Americans for Their Political Beliefs: Hr'g Before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. 22 (May 22, 2013) (statement of Lois Lerner). In addition, in conjunction with her statement, Ms. Lerner authenticated a collection of her written responses to questions asked of her by TIGTA in the course of its investigation. *See id.* at 22-23.

After Ms. Lerner completed her statement, and after she had authenticated the collection of her written responses, the following exchange occurred:

> **CHAIRMAN ISSA.** Ms. Lerner, the topic of today's hearing is the IRS' improper targeting of certain groups for additional scrutiny regarding their application for tax-exempt status. As Director of Exempt Organizations of the Tax-Exempt and Government Entities Division of the IRS, you were uniquely positioned to provide testimony to help this committee better understand how and why the IRS targeted these groups. *To that end, I must ask you to reconsider, particularly in light of the fact that you have given not once, but twice testimony before this committee under oath this morning.* You have made an opening statement in which you made assertions of your innocence, assertions you did nothing wrong, assertions you broke no laws or rules. Additionally, you authenticated earlier answers to the IG.
>
> *At this point I believe you have not asserted your rights, but, in fact, have effectively waived your rights. Would you please seek* [counsel] *for further guidance on this matter while we wait?*
>
> **MS. LERNER.** I will not answer any questions or testify about the subject matter of this committee's meeting.

**CHAIRMAN ISSA.** We will take your refusal as a refusal to testify.

*Id.* at 23 (emphases added); *see also id.* (statement of Rep. Gowdy) ("She just testified. She just waived her Fifth Amendment right to privilege. You don't get to tell your side of the story and then not be subjected to cross examination. That's not the way it works. She waived her right of Fifth Amendment privilege by issuing an opening statement. She ought to stay in here and answer our questions.").

After hearing testimony from the remaining witnesses, the Chairman recessed the May 22, 2013 hearing session with the following remarks:

> And, with that, at the beginning of this hearing, I called four witnesses. Pursuant to a subpoena, Ms. Lois Lerner arrived. We had been previously communicated by her counsel – and she was represented by her own independent counsel – that she may invoke her Fifth Amendment privileges.
>
> Out of respect for this constitutional right and on advice of committee counsel, we, in fact, went through a process that included the assumption which was – which I did, which was that she would not make an opening statement. She chose to make an opening statement.
>
> In her opening statement, she made assertions under oath in the form of testimony. Additionally, faced with the interview notes that we received at the beginning of the hearing, I asked her if they were correct, and she answered yes.
>
> It is – and it was brought up by Mr. Gowdy that, in fact, in his opinion as a longtime district attorney, Ms. Lerner may have waived her Fifth Amendment rights by addressing core issues in her opening statement and authentication afterwards.
>
> I must consider this. *So, although I excused Ms. Lerner, subject to a recall, I am looking into the possibility of recalling her and insisting that she answer questions in light of a waiver.*
>
> For that reason and with your understanding and indulgence, this hearing stands in recess, not adjourned.

*Id.* at 124 (statement of Chairman Issa) (emphasis added).

On June 28, 2013, the Committee met in public to consider whether Ms. Lerner had waived her Fifth Amendment privilege by making her voluntarily statement. The Chairman noted that, while he could have ruled on the waiver issue himself during the course of the May 22, 2013 hearing session, he had chosen the more deliberate course of putting the issue to a Committee vote. *See Tr. of Bus. Meeting of the H. Comm. on Oversight & Gov't Reform*, 113th Cong. 4 (June 28, 2013) ("June 28, 2013 Business Meeting Transcript") (statement of Chairman Issa), *video record available at* http://oversight.house.gov/markup/full-committee-business-meeting-15. During the intervening 37 days, the Committee had received and considered, among other things, Ms. Lerner's views on the waiver issue, as expressed in writing by her counsel on her behalf. *See id.* at 5 (entering Ms. Lerner's views into the record).

The Chairman then expressed his views as follows:

> Having now considered the facts and arguments, I believe Lois Lerner waived her Fifth Amendment privileges. She did so when she chose to make a voluntary opening statement.
>
> Ms. Lerner's opening statement referenced the Treasury IG report, and the Department of Justice investigation . . . and the assertions that she had previously provided false information to the committee. She made four specific denials. Those denials are at the core of the committee's investigation in this matter. She stated that she had not done anything wrong, not broken any laws, not violated any IRS rules or regulations, and not provided false information to this or any other congressional committee regarding areas about which committee members would have liked to ask her questions. Indeed, committee members are still interested in hearing from her. Her statement covers almost the entire range of questions we wanted to ask when the hearing began on May 22.

*Id.*

After a vigorous debate, the Committee approved, by a 22-17 vote, a resolution which states in pertinent part as follows:

> Resolved, That the Committee on Oversight and Government Reform determines that the voluntary statement offered by Ms. Lerner constituted a waiver of her Fifth Amendment privilege against self-incrimination as to all questions within the subject matter of the Committee hearing that began on May 22, 2013, including questions relating to (i) Ms. Lerner's knowledge of any targeting by the Internal Revenue Service of particular groups seeking tax exempt status, and (ii) questions relating to any facts or information that would support or refute her assertions that, in that regard, "she has not done anything wrong," "not broken any laws," "not violated any IRS rules or regulations," and/or "not provided false information to this or any other congressional committee."

*Res. of the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (June 28, 2013) ("June 28, 2013 Resolution"), *available at* http://oversight.house.gov/wp-content/uploads/2013/06/Resolution-of-the-Committee-on-Oversight-and-Government-Reform-6-28-131.pdf; *see also* June 28, 2013 Bus. Meeting Tr. at 65-66 (recording vote).

On February 25, 2014, the Chairman wrote to Ms. Lerner's counsel as follows:

> At [the May 22, 2013 session of] the hearing, Ms. Lerner gave a voluntary opening statement, under oath, discussing her position at the IRS and professing her innocence. After that opening statement, during which she spoke in detail about the core issues under consideration at the hearing, Ms. Lerner invoked the Fifth Amendment and declined to answer questions from Committee Members . . . . I temporarily excused Ms. Lerner from, and later recessed, the hearing to allow the Committee to determine whether she had waived her asserted Fifth Amendment right. The Committee subsequently determined that Ms. Lerner in fact had waived that right.
>
> * * *
>
> *[B]ecause the Committee explicitly rejected [Ms. Lerner's] Fifth Amendment privilege claim, I expect her to provide answers when the hearing reconvenes on March 5.*

Letter from Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform, to William W. Taylor, III, Esq., at 1-2 (Feb. 25, 2014) ("Issa February 25, 2014 Letter") (emphasis added). Ms. Lerner's counsel responded the next day that "[w]e understand that the Committee

voted that she had waived her rights." Letter from William W. Taylor, III, Esq., to Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform, at 1 (Feb. 26, 2014) ("Taylor February 26, 2014 Letter").

Finally, on March 5, 2014, while still subject to the Subpoena and again accompanied by her counsel, Ms. Lerner appeared at the reconvened session of the Committee hearing that originally began on May 22, 2013. At the outset of the reconvened session, the Chairman stated as follows:

> Today, we have recalled Ms. Lois Lerner, the former director of Exempt Organizations at the IRS. Ms. Lerner appeared for the May 22nd, 2013, hearing under a subpoena, and that subpoena remains in effect.
>
> Before we resume our questioning, I am going to briefly state for the record a few developments that have occurred since the hearing began 9 months ago. *These are important for the record and for Ms. Lerner to know and understand.*
>
> On May 22nd, 2013, after being sworn in at the start of the hearing, Ms. Lerner made a voluntary statement under oath discussing her position at the IRS and professing her innocence.
>
> Ms. Lerner did not provide the committee with any advance notification of her intention to make such a statement.
>
> During her self-selected and entirely voluntary statement, Ms. Lerner spoke in detail about core issues under consideration at the hearing when she stated, "I have not done anything wrong. I have not broken any laws. I have not violated any IRS rules or regulations, and I have not provided false information to this or any other congressional committee."
>
> * * *
>
> At that hearing, a member of the committee, Mr. Gowdy, stated that Ms. Lerner had waived her right to invoke the Fifth Amendment because she had given a voluntary statement professing her innocence.

> I temporarily excused Ms. Lerner from the hearing and subsequently recessed the hearing to consider whether Ms. Lerner had in fact waived her Fifth Amendment rights.
>
> * * *
>
> At a business meeting on June 28, 2013, the committee approved a resolution rejecting Ms. Lerner's claim of Fifth Amendment privilege based on her waiver . . . .
>
> After that vote, having made the determination that Ms. Lerner waived her Fifth Amendment rights, the committee recalled her to appear today to answer questions pursuant to rules. *The committee voted and found that Ms. Lerner waived her Fifth Amendment rights by making a statement on May 22nd, 2013, and additionally, by affirming documents after making a statement of [her] Fifth Amendment rights.*
>
> *If Ms. Lerner continues to refuse to answer questions from our members while she is under a subpoena, the committee may proceed to consider whether she should be held in contempt.*

*The IRS: Targeting Americans for Their Political Beliefs: Hr'g before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. 3-5 (Mar. 5, 2014) ("March 5, 2014 Hearing Session") (statement of Chairman Issa) (emphases added).

As the March 5, 2014 Hearing Session proceeded, Ms. Lerner did exactly what the Chairman warned her against: She continued to assert the Fifth Amendment and refused to answer any questions put to her by the Oversight Committee.

## ANALYSIS

### Part I: The Legal Framework – the *Quinn* Trilogy

On May 23, 1955, the Supreme Court released three opinions: *Quinn*, 349 U.S. 155; *Emspak*, 349 U.S. 190; and *Bart*, 349 U.S. 219. All three opinions concerned witnesses who refused to answer questions put to them by a House investigative committee, and all of whom then were prosecuted for, and convicted of, violating 2 U.S.C. § 192 for their refusal to answer that committee's questions. Section 192 provided then, as it provides now, that:

> Every person who having been summoned as a witness by the authority of either House of Congress to give testimony . . . under inquiry before . . . any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than $1,000 nor less than $100 and imprisonment in a common jail for not less than one month nor more than twelve months.

In each of the three cases (the principal cases on which Mr. Rosenberg relies in opining as he does), the Supreme Court considered whether the requisite criminal intent – i.e., "a deliberate, intentional refusal to answer," *Quinn*, 349 U.S. at 165 – could be proved beyond a reasonable doubt. The Court articulated the legal standard for resolving that question as follows: "[U]nless the witness is clearly apprised that the committee demands his answer notwithstanding his objections, there can be no conviction under § 192 for refusal to answer that question." *Id.* at 166; *see also id.* at 167 (all that is required is "a clear disposition of the witness' objection"); *Emspak*, 349 U.S. at 202 (witness must be "confronted with a clear-cut choice between compliance and noncompliance, between answering the question and risking prosecution for contempt"); *Bart*, 349 U.S. at 222-23 ("Without such a [clear-cut] ruling [on the witness' objection], evidence of the requisite criminal intent to violate § 192 is lacking.").

The Supreme Court went on to say that the prosecution could establish that the "witness [had been] clearly apprised that the committee demands his answer notwithstanding his objections," *Quinn*, 349 U.S. at 166 – and thereby defeat a motion to dismiss a section 192 indictment – in one of two ways:

- directly, by demonstrating that the congressional entity – here, the Oversight Committee – specifically overruled the witness' objection; *or*

- indirectly, by demonstrating that the congressional entity specifically directed the witness to answer.[3]

In *Quinn*, *Emspak* and *Bart*, the Court determined that the House investigative committee had done neither (and, as a result, concluded that the witnesses could not be prosecuted under section 192):

> At no time did the committee specifically overrule [the witness'] objection based on the Fifth Amendment; *nor* did the committee indicate its overruling of the objection by specifically directing [the witness] to answer. In the absence of such committee action, [the witness] was never confronted with a clear-cut choice between compliance and noncompliance, between answering the question and risking prosecution for contempt. At best he was left to guess whether or not the committee had accepted his objection.

*Quinn*, 349 U.S. at 166 (emphasis added).

> At no time did the committee specifically overrule [the witness'] objection based on the Fifth Amendment, *nor* did the committee indicate its overruling of the objection by specifically directing [the witness] to answer. In the absence of such committee action, [the witness] was never confronted with a clear-cut choice between compliance and noncompliance, between answering the question and risking prosecution for contempt.

*Emspak*, 349 U.S. at 202 (emphasis added).

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[3] *See also Presser v. United States*, 284 F.2d 233, 235-36 (D.C. Cir. 1960) (affirming conviction upon determining that witness sufficiently apprised of requirement that he testify based on Chairman's directing that he do so, notwithstanding absence of any express overruling of witness' Fifth Amendment objection); *Grossman v. United States*, 229 F.2d 775, 776 (D.C. Cir. 1956) (noting, in discussing *Quinn* trilogy, that Supreme Court "held that the Committee must *either* specifically overrule the objection *or* specifically direct the witness to answer despite his objection" (emphases added)); *United States v. Singer*, 139 F. Supp. 847, 848, 853 n.6 (D.D.C. 1956) ("To lay the necessary foundation for a prosecution under Section 192 . . . a congressional investigating committee before whom a witness appears must specifically overrule the objections of the witness *or* specifically direct him to answer despite his objections"; "Committee must *either* specifically overrule the objection *or* specifically direct the witness to answer despite his objection." (emphases added)), *aff'd sub nom. Singer v. United States*, 244 F.2d 349 (D.C. Cir.), *vacated & rev'd on other grounds*, 247 F.2d 535 (D.C. Cir. 1957).

> At no time did the committee directly overrule [the witness'] claims of self-incrimination or lack of pertinency. *Nor* was [the witness] indirectly informed of the committee's position through a specific direction to answer. . . .
>
> Because of the consistent failure to advise the witness of the committee's position as to his objections, [the witness] was left to speculate about the risk of possible prosecution for contempt; he was not given a clear choice between standing on his objection and compliance with a committee ruling.

*Bart*, 349 U.S. at 222-23 (emphasis added).

In ruling as it did, the Supreme Court made clear that the notice to a witness of the rejection of his or her objection need not follow "any fixed verbal formula." *Quinn*, 349 U.S. at 170; *see also Flaxer v. United States*, 358 U.S. 147, 152 (1958) ("'[T]he committee is not required to resort to any fixed verbal formula to indicate its disposition of the objection.'" (quoting *Quinn*, 349 U.S. at 170)). Rather, "[s]o long as the witness is not forced to guess the committee's ruling, he has no cause to complain." *Quinn*, 349 U.S. at 170; *accord Flaxer*, 358 U.S. at 152.

**Part II: Application of the Legal Framework Here**

Here, the factual record overwhelmingly supports the conclusion that Ms. Lerner would "ha[ve] no cause to complain" if she were to be indicted and prosecuted under 2 U.S.C. § 192 because she was "not forced to guess the [C]ommittee's ruling" on her Fifth Amendment claim. *Quinn*, 349 U.S. at 170. This is so for two reasons.

*First*, unlike in *Quinn*, *Emspak* and *Bart*, the Oversight Committee specifically overruled Ms. Lerner's Fifth Amendment objection (and then advised her that it had done so):

- By virtue of its June 28, 2013 Resolution, the Committee formally "determine[d] that the voluntary statement offered by Ms. Lerner constituted a waiver of her Fifth Amendment privilege against self-incrimination as to all questions within

the subject matter of the Committee hearing that began on May 22, 2013." June 28, 2013 Res.

- The Chairman then stated in his February 25, 2014 letter to Ms. Lerner's counsel that "[t]he Committee . . . determined that Ms. Lerner in fact had waived [her Fifth Amendment] right," Issa Feb. 25, 2014 Letter at 1, and that "the Committee explicitly rejected [Ms. Lerner's] Fifth Amendment privilege claim," *id.* at 2.
- The Chairman then reiterated during the reconvened hearing session on March 5, 2014 – at which Ms. Lerner physically was present with her counsel – that "[a]t a business meeting on June 28, 2013, the committee approved a resolution rejecting Ms. Lerner's claim of Fifth Amendment privilege based on her waiver," and that "[t]he committee voted and found that Ms. Lerner waived her Fifth Amendment rights by making a statement on May 22nd, 2013, and additionally, by affirming documents after making a statement of Fifth Amendment rights." Mar. 5, 2014 Hr'g Session at 4-5.

It is hard to imagine "a clear[er] disposition of [Ms. Lerner's] objection," *Quinn*, 349 U.S. at 167, and plainly she was "left to guess" at nothing, *id.* at 166. Through her counsel, she acknowledged that she "underst[oo]d that the Committee voted that she had waived her rights," Taylor Feb. 26, 2014 Letter at 1, and even Mr. Rosenberg admits that the Committee "on June 28, 2013 . . . reject[ed] Ms. Lerner's privilege claim," Rosenberg Mem. at 2.[4]

[4] Given Mr. Rosenberg's explicit acknowledgement of what occurred on June 28, 2013, we are at a loss to understand the significance he attaches to the fact that the "Chair [did not] . . . expressly overrule [Ms. Lerner's] claim of privilege" on March 5, 2014. Rosenberg Mem. at 2. The Chairman did not need to rule on Ms. Lerner's Fifth Amendment claim at the March 5, 2014 reconvened hearing because the Committee already formally had rejected her claim more than eight months earlier. To the extent Mr. Rosenberg implies that the Committee had to re-reject Ms. Lerner's Fifth Amendment claim on March 5, 2014, we are aware of no authority that

*Second*, although it was not required to do so (in light of its express rejection of Ms. Lerner's Fifth Amendment claim on June 28, 2013, and its communication of that determination to her), the Oversight Committee also specifically directed Ms. Lerner to answer its questions, and then reinforced that direction by making clear that she risked being held in contempt if she did not comply (again, unlike in *Quinn*, *Emspak* and *Bart*). In particular:

- The Chairman stated in his February 25, 2014 letter to Ms. Lerner's counsel that "because the Committee explicitly rejected [Ms. Lerner's] Fifth Amendment privilege claim, I expect her to provide answers when the hearing reconvenes on March 5." Issa Feb. 25, 2014 Letter at 2.[5]
- The Chairman's February 25, 2014 letter was preceded by extensive discussion at the Committee's June 28, 2013 public business meeting of the possibility that Ms. Lerner could be held in contempt. *See, e.g.*, June 28, 2013 Bus. Meeting Tr. at 24 (statement of Rep. Mica) ("And the ranking member is correct, she may be held in contempt in the future."); *id.* at 45 (statement of Rep. Meehan) ("To the extent that she will invoke the Fifth Amendment privilege, and we would hold her in contempt, it will go before ultimately a qualified court of law."); *id.* at 53 (statement of Rep. Lynch) ("[W]e assume that there will be a contempt citation issued by this Congress.").
- And, the Chairman's February 25, 2014 letter was succeeded, during the reconvened hearing session on March 5, 2014, by this verbal warning: "If Ms.

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supports such a suggestion, nor has Mr. Rosenberg cited any. Moreover, and in any event, the Chairman did reiterate at the March 5, 2014 reconvened hearing, after specifically drawing Ms. Lerner's attention to these developments, that, "[a]t a business meeting on June 28, 2013, the [C]ommittee approved a resolution rejecting Ms. Lerner's claim of Fifth Amendment privilege based on her waiver." Mar. 5, 2014 Hr'g Session at 4-5.

[5] The Rosenberg Memorandum does not mention the Chairman's February 25, 2014 letter.

> Lerner continues to refuse to answer questions from our members while she is under a subpoena, the [C]ommittee may proceed to consider whether she should be held in contempt." Mar. 5, 2014 Hr'g Session at 5.[6]

For all these reasons, we do not agree with Mr. Rosenberg that "the requisite legal foundation for a criminal contempt of Congress prosecution [against Ms. Lerner] . . . ha[s] not been met and that such a proceeding against [her] under 2 U.S.C. [§] 19[2], if attempted, will be dismissed." Rosenberg Mem. at 4. In this Office's opinion, there is no constitutional impediment to (i) the Committee approving a resolution recommending that the full House hold Ms. Lerner in contempt of Congress; (ii) the full House approving a resolution holding Ms. Lerner in contempt of Congress; (iii) if such resolutions are approved, the Speaker certifying the matter to the United States Attorney for the District of Columbia, pursuant to 2 U.S.C. § 194; and (iv) a grand jury indicting, and the United States Attorney prosecuting, Ms. Lerner under 2 U.S.C. § 192.

In other words, contrary to Mr. Rosenberg's conclusion, we think it highly unlikely a district court would dismiss a section 192 indictment of Ms. Lerner on the ground that she was insufficiently apprised that the Committee demanded her answers to its questions, notwithstanding her Fifth Amendment objection.

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[6] This is in sharp contrast to *Bart* – to which Mr. Rosenberg attaches substantial significance, *see* Rosenberg Mem. at 3 – where a committee Member "suggest[ed] to the chairman that the witness 'be advised of the possibilities of contempt' for failure to respond, but the suggestion was rejected [by the chairman]." *Bart*, 349 U.S. at 222 (footnote omitted). Here, the Chairman expressly advised Ms. Lerner that she risked being held in contempt of Congress if she continued to refuse to answer the Committee's questions.

**Part III: Response to Other Rosenberg Conclusions/Theories**

We discuss here four other respects in which Mr. Rosenberg's legal analysis is flawed.

1. Mr. Rosenberg appears to contend that the Committee was obligated to warrant in some fashion to Ms. Lerner that she would *in fact* be prosecuted if she did not answer its questions. *See* Rosenberg Mem. at 2 ("At no time during his questioning [during the March 5, 2014 reconvened hearing] did the Chair . . . make it clear that [Ms. Lerner's] refusal to respond would result in a criminal contempt prosecution."); *id.* at 3 ("[I]t [was not] made unequivocally certain that [Ms. Lerner's] failure to respond [to the Committee's questions] would result in criminal contempt prosecution."); *id.* at 4 ("[T]here could be no certainty for the witness and her counsel that a contempt prosecution was inevitable."). But Mr. Rosenberg cites no authority to support this "inevitability" proposition, and indeed there is none. *Cf. Quinn*, 349 U.S. at 166 (standard is whether witness clearly apprised that committee demands his answer notwithstanding his objections; emphasizing that standard requires only that witness be presented choice "between answering the question and *risking* prosecution for contempt" (emphasis added)); *Emspak*, 349 U.S. at 202 (same); *Bart*, 349 U.S. at 221-22 (same).

Indeed, there could be no such guarantee because a section 192 prosecution of Ms. Lerner would be a multi-step process, involving many different actors, none of whose conduct or decisions could be guaranteed in advance.

- The process would begin with a Committee vote on a resolution recommending to the full House that Ms. Lerner be held in contempt – and the outcome of that vote could not be guaranteed in advance.

- Assuming the Committee approved such a resolution, a vote in the full House on a resolution of contempt would follow – and the outcome of that vote also could not be guaranteed in advance.
- Assuming the full House approved such a resolution, the Speaker would be statutorily obligated to refer the matter to the United States Attorney (an officer of a separate branch of the federal government) who would be statutorily obligated to present the matter to a grand jury.
- Assuming the United States Attorney carried out his statutory obligation – again, something that could not be guaranteed in advance – a section 192 prosecution of Ms. Lerner still would require the return of an indictment by a grand jury that does not yet even exist, and whose actions also could not be guaranteed in advance.

In short, if Mr. Rosenberg were correct, no witness before a congressional committee *ever* could be prosecuted for violating section 192, no matter how contumacious his/her conduct.

2. Mr. Rosenberg also appears to contend that the *Quinn* trilogy required the Committee *both* to overrule Ms. Lerner's Fifth Amendment objection *and* to direct her to answer its questions. *See* Rosenberg Mem. at 3. But this is an incorrect reading of the Supreme Court's reasoning in the *Quinn* trilogy, *see supra* Analysis, Part I, as confirmed by the D.C. Circuit, both in its holding in *Presser* and in *Grossman*, *see id.* at n.3. We are not aware of any case that holds otherwise, and Mr. Rosenberg has not cited one.[7] Moreover, Mr. Rosenberg's contention is

[7] Aside from the *Quinn* trilogy, Mr. Rosenberg cites no authority on the notice issue other than *Fagerhaugh v. United States*, 232 F.2d 803 (9th Cir. 1956), and *Jackins v. United States*, 231 F.2d 405 (9th Cir. 1956), neither of which he discusses. Those cases are inapposite here for at least two reasons. *First*, the statements in those cases upon which Mr. Rosenberg presumably would rely are dicta. In *Fagerhaugh*, the House committee neither overruled the witness' Fifth

beside the point because the Oversight Committee *both* overruled Ms. Lerner's Fifth Amendment objection, *and* directed her to answer its questions. *See supra* Analysis, Part II.

3. Mr. Rosenberg also states, immediately after asserting that "a proceeding against Ms. Lerner under 2 U.S.C. [§] 19[2], if attempted, will be dismissed," Rosenberg Mem. at 4, that "[s]uch a dismissal will likely also occur if the House seeks civil contempt enforcement," *id.* By "civil contempt enforcement," Mr. Rosenberg presumably means a subpoena enforcement action – like the Committee's subpoena enforcement action against Attorney General Holder in the Fast and Furious matter – pursuant to a House resolution authorizing the Oversight Committee to initiate such an action against Ms. Lerner.[8]

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Amendment objection nor directed the witness to answer after he had asserted his Fifth Amendment objection. *See* 232 F.2d at 804. In fact, after the witness asserted his Fifth Amendment objection, "the Committee seem[ed] to abandon the question and proceed[ed] to inquire about other matters." *Id.* at 805. Similarly, in *Jackins*, the House committee did not direct the witness to answer the relevant questions and, as far as the record reveals, also did not overrule the witness' objection. *See* 231 F.2d at 406-07. In short, neither case actually *held* that a section 192 prosecution requires that a witness' objection be overruled *and* that she be directed to answer – because neither court had occasion to actually decide that issue.

*Second*, *Fagerhaugh* and *Jackins* are not the law in the District of Columbia, where Ms. Lerner would be prosecuted if she were indicted for violating section 192. *See* Fed. R. Crim. P. 18 ("Unless a statute or these rules permit otherwise, the government must prosecute an offense in a district where the offense was committed."); 2 U.S.C. § 192 (not providing for different venue). *Presser* and *Grossman*, on the other hand, are the law in the District of Columbia, and both say that a section 192 prosecution can proceed if a committee *either* specifically overrules a witness' objection *or* specifically directs the witness to answer despite her objection.

Other circuits that have considered this issue agree with the D.C. Circuit that a committee may apprise a witness of the necessity of choosing between answering a question and risking contempt *either* by overruling her objection *or* by directing her to answer. *See Braden v. United States*, 272 F.2d 653, 661 (5th Cir. 1959) (affirming section 192 conviction after inquiring only whether committee provided direction to answer; no inquiry into whether objection expressly overruled); *Davis v. United States*, 269 F.2d 357, 362-63 (6th Cir. 1959) (same; emphasizing *Quinn*'s admonition that, "'[s]o long as the witness is not forced to guess the committee's ruling, [the witness] has no cause to complain'"; "'[T]he committee is not required to resort to any fixed verbal formula to indicate its disposition of the objection.'" (quoting *Quinn*, 349 U.S. at 170)).

[8] *See* H. Res. 706, 112th Cong. (June 28, 2012) (enacted) (authorizing Oversight Committee to initiate civil subpoena enforcement action against Attorney General); *cf.* H. Res. 711, 112th

Such a subpoena enforcement action would be a civil suit and would not arise under section 192, which means that criminal intent would not be at issue, and the *Quinn* trilogy would not apply. *Cf. supra* Analysis, Part I. Accordingly, the assertion that "civil contempt enforcement" likely would be dismissed is simply that: a bare assertion that is unsupported by any analysis or case law in the Rosenberg Memorandum.

4. Lastly, we note that Mr. Rosenberg more recently suggested that the Chairman's "last question to [Ms.] Lerner [on March 5, 2014] further reflects the uncertainty of what the [C]ommittee intended. He asked her whether she still wanted to 'testify' with a week['']s delay, referencing communications between the [C]ommittee and her attorney." Michael Stern, *Can Lois Lerner Skate on a Technicality?*, Point of Order (Mar. 20, 2014, 11:46 AM), http://www.pointoforder.com/2014/03/20/can-lois-lerner-skate-on-a-technicality/#more-5510 (scroll down to "Mort Rosenberg responds"); *see also* Mem. from Louis Fisher to H. Comm. on Oversight & Gov't Reform at 2 (Mar. 16, 2014) (suggesting, in similar vein, that (i) Ms. Lerner might have been willing to testify had the Committee recalled her one week later, and (ii) because Committee did not wait that week, it "has not made the case that [Ms. Lerner] acted in contempt . . . . [, and, i]f litigation resulted, courts are likely to reach the same conclusion"). The factual backdrop for these incorrect notions is as follows.

On March 1, 2014, Ms. Lerner's counsel suggested to a Committee staffer that she might testify if there was a one week delay in the reconvening of the hearing. The Committee's General Counsel promptly sought clarification: "I understand . . . that Ms. Lerner is willing to testify, and she is requesting a one week delay. In talking . . . to the Chairman, wanted to make sure we had this right." E-mail from Stephen Castor, Gen. Counsel, H. Comm. on Oversight &

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Cong. (June 28, 2012) (enacted) (holding Attorney General Eric H. Holder, Jr. in contempt of Congress for failure to comply with Oversight Committee subpoena).

Gov't Reform, to William W. Taylor, III, Esq. (Mar. 1, 2014, 2:11 PM EST). One hour later, Ms. Lerner's counsel responded "[y]es." E-mail from William W. Taylor, III, Esq. to Stephen Castor, Gen. Counsel, H. Comm. on Oversight & Gov't Reform (Mar. 1, 2014, 3:10 PM EST).

Two days later, Ms. Lerner's offer, if that is what it was, was off the table. Specifically, the Committee's General Counsel emailed Ms. Lerner's counsel, on March 3, 2014, as follows:

> We are getting some mixed messages from reporters about your current position. . . . You said your client was going to testify and requested a one week delay. On Sat[urday, March 1, 2014,] I indicated the Chairman would be in a position to confer with his members on that request on Monday [March 3, 2014]. Do you have a current ask that you want us to take back? If so please state it.

E-mail from Stephen Castor, Gen. Counsel, H. Comm. on Oversight & Gov't Reform, to William W. Taylor, III, Esq. (Mar. 3, 2014, 11:01 AM EST). Three hours later, Ms. Lerner's counsel responded, "*I have no ask. She will appear Wednesday* [March 5, 2014]." E-mail from William W. Taylor, III, Esq., to Stephen Castor, Gen. Counsel, H. Comm. on Oversight & Gov't Reform (Mar. 3, 2014, 2:07 PM EST) (emphasis added).

At the reconvened hearing on March 5, 2014, the Chairman's final question to Ms. Lerner – which Messrs. Rosenberg and Fisher both reference – appears to reflect nothing more than the Chairman's effort to ascertain for certain Ms. Lerner's position on this issue:

> Ms. Lerner, on Saturday [March 1, 2014], our committee's general counsel sent an email to your attorney saying, "I understand that Ms. Lerner is willing to testify and she is requesting a 1 week delay. In talking . . . to the chairman, wanted to make sure that was right." Your lawyer, in response to that question, gave a one word email response, "yes." Are you still seeking a 1 week delay in order to testify?

Mar. 5, 2014 Hr'g Session at 8 (statement of Chairman Issa). Ms. Lerner responded that, "[o]n the advice of my counsel, I respectfully exercise my Fifth Amendment right and decline to answer that question." *Id.* (statement of Lois Lerner).

Accordingly, at the time the March 5, 2014 reconvened hearing closed, there was, as a matter of fact, no offer on the table by Ms. Lerner to testify in exchange for a one-week delay (and no basis for confusion on the part of anyone with access to the facts). Her attorney had nixed that idea on March 3, 2014, and Ms. Lerner's final Fifth Amendment assertion confirmed that she was not willing to testify before the Committee – period.

In addition, as a legal matter, a witness before a congressional committee who has been subpoenaed to testify, as Ms. Lerner was, does not get to choose when to comply. While the Committee could have agreed to reschedule Ms. Lerner's testimony, it was not obliged to do so. Indeed, if the law were otherwise, a congressional subpoena would have no force at all because a witness always could promise to testify "tomorrow." *See, e.g.*, *United States v. Bryan*, 339 U.S. 323, 331 (1950) ("A subpoena has never been treated as an invitation to a game of hare and hounds, in which the witness must testify only if cornered at the end of the chase. If that were the case, then, indeed, the great power of testimonial compulsion, so necessary to the effective functioning of courts and legislatures, would be a nullity."); *Eisler v. United States*, 170 F.2d 273, 279 (D.C. Cir. 1948) ("Having been summoned by lawful authority, [the witness] was bound to conform to the procedure of the Committee."); *Comm. on the Judic., U.S. House of Representatives v. Miers*, 558 F. Supp. 2d 53, 99 (D.D.C. 2008) ("The Supreme Court has made it abundantly clear that compliance with a congressional subpoena is a legal requirement."); *United States v. Brewster*, 154 F. Supp. 126, 134 (D.D.C. 1957) ("[A]witness has no right to set his own conditions for testifying or to force the committee to depart from its settled

procedures."), *rev'd on other grounds*, 255 F.2d 899 (D.C. Cir. 1958); *accord United States v. Orman*, 207 F.2d 148, 158 (3d Cir. 1953) ("In general a witness before a congressional committee must abide by the committee's procedures and has no right to vary them or to impose conditions upon his willingness to testify."). Neither Mr. Rosenberg nor Mr. Fisher has cited any case law or other authority to the contrary.

## CONCLUSION

For all the reasons stated above, it is this Office's considered opinion that Mr. Rosenberg is wrong in concluding that "the requisite legal foundation for a criminal contempt of Congress prosecution [of Ms. Lerner] . . . ha[s] not been met and that such a proceeding against [her] under 2 U.S.C. [§] 19[2], if attempted, will be dismissed." Rosenberg Mem. at 4.

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ONE HUNDRED THIRTEENTH CONGRESS

# Congress of the United States
## House of Representatives

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April 9, 2014

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Ranking Member Cummings:

The Committee has engaged in a comprehensive and thorough examination of the IRS targeting of tax-exempt applicants. From the very outset, you have worked to obstruct the investigation, even declaring on national television after only a few weeks of fact-finding that the "case is solved."[1] New IRS documents identified by the Committee raise disturbing concerns about your possible motivations for opposing this investigation and unwillingness to lend your support to efforts to obtain the testimony of former IRS Exempt Organizations Director Lois G. Lerner.

Although you have previously denied that your staff made inquiries to the IRS about conservative organization True the Vote that may have led to additional agency scrutiny, records of communication between your staff and IRS officials – which you did not disclose to Majority Members or staff – indicate otherwise. As the Committee is scheduled to consider a resolution holding Ms. Lerner, a participant in responding to your communications that you failed to disclose, in contempt of Congress, you have an obligation to fully explain your staff's undisclosed contacts with the IRS.

Ms. Catherine Engelbrecht, the founder and President of True the Vote, an organization that had applied for tax-exempt status with the IRS, testified before the Subcommittee on Economic Growth, Job Creation, and Regulatory Affairs about the IRS targeting of True the Vote.[2] During this proceeding, she alleged that you targeted her group in the same manner as the IRS. She testified: "Three times, Representative Elijah Cummings sent letters to True the Vote, demanding much of the same information that the IRS had requested. Hours after sending

[1] *State of the Union with Candy Crowley* (CNN television broadcast June 9, 2013) (interview with Ranking Member Elijah E. Cummings).
[2] *"The IRS Targeting Investigation: What Is the Administration Doing?": Hearing before the Subcomm. on Economic Growth, Job Creation, and Regulatory Affairs of the H. Comm. on Oversight & Gov't & Reform*, 113th Cong. (2014).

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letters, he would appear on cable news and publicly defame me and my organization. Such tactics are unacceptable."[3]

During the hearing, Ms. Engelbrecht's attorney, Cleta Mitchell, raised the possibility that your staff had coordinated with the IRS in targeting True the Vote. Your exchange with Ms. Mitchell was as follows:

| | |
|---|---|
| Ms. Mitchell: | **We want to get to the bottom of how these coincidences happened, and we're going to try to figure out whether any – if there was any staff of this committee that might have been involved in putting True the Vote on the radar screen of some of these Federal agencies.** We don't know that, but we – we're going to do everything we can do to try to get to the bottom of how did this all happen. |
| Mr. Cummings: | Will the gentleman yield? |
| Mr. Meadows: | Yes. |
| Mr. Cummings: | I want to thank the gentleman for his courtesy. **What she just said is absolutely incorrect and not true.**[4] |

Beginning in 2010, congressional Democrats publicly and aggressively lobbied the IRS to crack down on 501(c)(4) organizations involved in political speech. Senator Dick Durbin urged the IRS to "quickly investigate the tax-exempt status of Crossroads GPS,"[5] and Senator Max Baucus implored the IRS to "survey major" nonprofit groups.[6] In March 2012, Representative Peter Welch and 31 other Democrats urged the IRS to "investigate whether any groups qualifying as social welfare organizations under 501(c)(4) . . . are improperly engaged in political campaign activity.[7]

New IRS e-mails obtained in the Committee's investigation of IRS targeting indicate that in late August 2012, your staff contacted the IRS to notify them that you "are about to launch an investigation similar to the one launched by Cong. Welch's office."[8] In October 2012, you sent the first of a series of letters to Ms. Engelbrecht, President of True the Vote, an organization that had applied for tax-exempt status with the IRS.[9] Your letter requested various categories of

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[3] *Id.* (written testimony of Catherine Engelbrecht, True the Vote).
[4] *Id.*
[5] Press Release, Senator Dick Durbin, Durbin urges IRS to investigate spending by Crossroads GPS (Oct. 12, 2010).
[6] Letter from Max Baucus, S. Comm. on Finance, to Douglas H. Shulman, Internal Revenue Serv. (Sept. 28, 2010).
[7] Letter from Peter Welch et al., U.S. House of Representatives, to Douglas Shulman, Internal Revenue Serv. (Mar. 28, 2012).
[8] E-mail from Catherine Williams, Internal Revenue Serv., to Ross Kiser & Kevin Smith, Internal Revenue Serv. (Aug. 31, 2012). [IRSR 563026]
[9] Letter from Elijah E. Cummings, H. Comm. on Oversight & Gov't Reform, to Catherine Engelbrecht, True the Vote (Oct. 4, 2012) [hereinafter "Ranking Member Cummings Letter"].

information from Ms. Engelbrecht.[10] Several of your requests are virtually identical to the information requests sent by the IRS to True the Vote in February 2012.[11] For example:

- The IRS asked True the Vote "how many jurisdictions have you presented your review of voter rolls to election administration?"[12] You similarly requested "a list of voter registration rolls by state, county, and precinct that True the Vote is currently reviewing for potential challenges"; "a list of all individual voter registration challenges by state, county, and precinct submitted to government entities"; and "copies of all letters sent to states, counties, or other entities alleging non-compliance with the National Voter Registration Act for failing to conduct voter registrations list maintenance prior to the November elections."[13]

- The IRS inquired about the intellectual property rights associated with True the Vote's voter registration software.[14] You requested "copies of computer programs, research software, and databases used by True the Vote to review voter registration"; all contracts, agreements, and memoranda of understanding between True the Vote and affiliates or other entities relating to the terms of use of True the Vote research software and databases"; and "a list of all organizations and volunteer groups that currently have access to True the Vote computer programs, research software, and databases."[15]

- The IRS asked True the Vote for information describing "the training process used by the organization" and for a copy of "any training materials used."[16] You, likewise, requested "copies of all training materials used for volunteers, affiliates, or other entities."[17]

- The IRS requested information about any for-profit organizations associated with True the Vote.[18] You similarly requested "a list of vendors of voter information, voter registration lists, and other databases used by True the Vote, its volunteers, and its affiliates."[19]

This timeline and pattern of inquiries raises concerns that the IRS improperly shared protected taxpayer information with your staff.

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[10] *Id.*
[11] Letter from Janine L. Estes, Internal Revenue Serv., to True the Vote, c/o Cleta Mitchell, Foley & Lardner LLP (Feb. 8, 2012) [hereinafter "IRS Letter"].
[12] *Id.*
[13] Ranking Member Cummings Letter, *supra* note 9.
[14] IRS Letter, *supra* note 11.
[15] Ranking Member Cummings Letter, *supra* note 9.
[16] IRS Letter, *supra* note 11.
[17] Ranking Member Cummings Letter, *supra* note 9.
[18] IRS Letter, *supra* note 11.
[19] Ranking Member Cummings Letter, *supra* note 9.

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According to Ms. Engelbrecht, following your initial document request to her,[20] she faced additional scrutiny by multiple agencies and outside groups, including the IRS and the Bureau of Alcohol, Tobacco, Firearms and Explosives. For example, five days after your initial document request to Ms. Engelbrecht, in which you requested, among other things, "copies of all training materials used for volunteers, affiliates, or other entities,"[21] the IRS requested that Ms. Engelbrecht provide "a copy of [True the Vote's] volunteer registration form," "...the process you use to assign volunteers," "how you keep your volunteers in teams," and "how your volunteers are deployed ... following the training they receive by you."[22] Less than two weeks after your initial document request to Ms. Engelbrecht, the Service Employees International Union (SEIU) urged Lois Lerner to deny True the Vote's application for tax exempt status.[23] The following day, you sent a second request for documents to Ms. Engelbrecht, which you publicly described as "Ramp[ing] Up" your "Investigation" of True the Vote.[24]

In January 2013, your staff requested information from the IRS about True the Vote.[25] The head of the IRS Legislative Affairs office e-mailed several IRS officials, including former Exempt Organizations Director Lois Lerner, that "House Oversight Committee Minority staff" sought information about True the Vote.[26] The e-mail shows that your staff requested tax returns filed by True the Vote as well as any other IRS material about True the Vote's tax-exempt status.

**From**: Barre Catherine M
**Sent**: Friday, January 25, 2013 02:58 PM Eastern Standard Time
**To**: Lerner Lois G; Paz Holly O; Marks Nancy J
**Subject**: House Oversight Committee Minority Staff

The house oversight committee (not the subcommittee of ways and means) has requested any publicly available information on an entity that they believe has filed for c3 status.

They do not have a waiver.

The entity is KSP True the Vote EIN [redacted].

They believe the entity has filed tax returns in the past and would like copies of those if they are publicly available in addition to any other information that is publicly available about the entity's tax-exempt status.

In response to your staff's request, Lerner's subordinate Holly Paz – who has since been placed on administrative leave for her role in the targeting of conservative groups[27] – asked an

[20] Letter from Hon. Elijah Cummings, Ranking Member, House Comm. on Oversight and Govt. Reform, to Ms. Catherine Engelbrecht, Oct. 4, 2012.
[21] *Id.*
[22] Letter from IRS to True the Vote, Inc., October 9, 2012.
[23] Letter from Judith A. Scott, General Counsel, Service Employees International Union, to Douglas Shulman and Lois Lerner, Oct. 17, 2012.
[24] Press Release, Hon. Elijah Cummings, Ranking Member, House Comm. on Oversight and Govt. Reform, Oct. 18, 2012, available at http://democrats.oversight.house.gov/press-releases/cummings-ramps-up-investigation-of-voter-suppression-allegations/.
[25] E-mail from Catherine Barre, Internal Revenue Serv., to Lois Lerner et al., Internal Revenue Serv. (Jan. 25, 2013). [IRSR 180906]
[26] *Id.*
[27] *See* Eliana Johnson, *Did the IRS fire Holly Paz*, NAT'L REVIEW ONLINE, June 13, 2013.

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IRS employee to look for material about True the Vote.[28] This e-mail included material redacted as confidential taxpayer information covered by I.R.C. § 6103, suggesting that the IRS discussed particular sensitivities about True the Vote's tax information as a result of your request. It is unclear how the IRS responded to your request or what information you received from the IRS.

| | |
|---|---|
| **From:** | Paz Holly O |
| **Sent:** | Friday, January 25, 2013 3:53 PM |
| **To:** | Megosh Andy |
| **Subject:** | Fw: House Oversight Committee Minority Staff |

Can you please give us a quick look and see what publicly available docs (990, 990x) we have on this one? [redacted] Thank you!

IRS e-mails indicate that Lois Lerner appeared personally interested in fulfilling your request for information about True the Vote. Your staff requested the information on Friday, January 25, 2013. The following Monday, January 28, Lerner wrote to Paz: "Did we find anything?"[29] When Paz informed her minutes later that she had not heard back about True the Vote's information, Lerner replied: "thanks – check tomorrow please."[30]

[28] E-mail from Holly Paz, Internal Revenue Serv., to Andy Megosh, Internal Revenue Serv. (Jan. 25, 2013). [IRSR 180906]
[29] E-mail from Lois Lerner, Internal Revenue Serv., to Holly Paz, Internal Revenue Serv. (Jan. 28, 2013). [IRSR 557133]
[30] E-mail from Lois Lerner, Internal Revenue Serv., to Holly Paz, Internal Revenue Serv. (Jan. 28, 2013). [IRSR 557133]

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**From:** Lerner Lois G
**Sent:** Monday, January 28, 2013 5:57 PM
**To:** Paz Holly O
**Subject:** RE: House Oversight Committee Minority Staff

thanks—check tomorrow please

Lois G. Lerner
Director of Exempt Organizations

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**From:** Paz Holly O
**Sent:** Monday, January 28, 2013 4:04 PM
**To:** Lerner Lois G
**Subject:** RE: House Oversight Committee Minority Staff

Have not heard yet. We didn't get the request until people had left on Friday and people were in late or on unscheduled leave today.

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**From:** Lerner Lois G
**Sent:** Monday, January 28, 2013 4:01 PM
**To:** Paz Holly O
**Subject:** RE: House Oversight Committee Minority Staff

Did we find anything?

Lois G. Lerner
Director of Exempt Organizations

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**From:** Paz Holly O
**Sent:** Friday, January 25, 2013 4:51 PM
**To:** Barre Catherine M; Lerner Lois G; Marks Nancy J
**Subject:** Re: House Oversight Committee Minority Staff

I will see what we have as far as publicly available info and get back to you asap.

Sent from my BlackBerry Wireless Device

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**From:** Barre Catherine M
**Sent:** Friday, January 25, 2013 02:58 PM Eastern Standard Time
**To:** Lerner Lois G; Paz Holly O; Marks Nancy J
**Subject:** House Oversight Committee Minority Staff

The house oversight committee (not the subcommittee of ways and means) has requested any publicly available information on an entity that they believe has filed for c3 status.

Subsequently, on January 31, 2013, Holly Paz informed the IRS Legislative Affairs office that True the Vote had not been recognized for exempt status.[31] Paz attached True the Vote's form 990s, which she authorized the IRS to share with your staff.[32] Paz's e-mail also

[31] E-mail from Holly Paz, Internal Revenue Serv., to Catherine Barre, Internal Revenue Serv. (Jan. 31, 2013). [IRSR 557181]
[32] *Id.*

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included information redacted as confidential taxpayer information.[33] It is unclear whether the IRS shared True the Vote's confidential taxpayer information with you or your staff through either official or unofficial channels. The IRS certainly did not share these documents or others related to True the Vote at the time nor did they inform the Majority of your staff's request for information.

| | |
|---|---|
| **From:** | Paz Holly O |
| **Sent:** | Thursday, January 31, 2013 4:40 AM |
| **To:** | Barre Catherine M |
| **Cc:** | Lerner Lois G; Marks Nancy J |
| **Subject:** | FW: House Oversight Committee Minority Staff |
| **Attachments:** | 27-2860095 67 201112.pdf; 27-2860095 67 2010 .pdf |
| **Importance:** | High |

Cathy,

We have no record that this organization is recognized as a tax-exempt organization by virtue of an approved application. As you know, 6103 only permits us to talk about or provide copies of approved applications. [redacted]

[redacted] The organization has filed two Forms 990-EZ (attached) that we can share with the staffers.

Please let me know if you would like to discuss.

Thanks,

Holly

These documents, indicating the involvement of IRS officials at the center of the targeting scandal responding to your requests, raise serious questions about your actions and motivations for trying to bring this investigation to a premature end. If the Committee, as you publicly suggested in June 2013, "wrap[ped] this case up and moved on" at that time,[34] the Committee may have never seen documents raising questions about your possible coordination with the IRS in communications that excluded the Committee Majority. Your frequent complaints about the Committee Majority contacting individuals on official matters without the involvement of Minority staff make the reasons for your staff's secretive correspondence with the IRS even more mysterious.[35]

As the Committee continues to investigate the IRS's wrongdoing and to gather all relevant testimonial and documentary evidence, the American people deserve to know the full truth. They deserve to know why the Ranking Member and Minority staff of the House Committee on Oversight and Government Reform surreptitiously contacted the IRS about an

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[33] *Id.*

[34] *State of the Union with Candy Crowley* (CNN television broadcast June 9, 2013) (interview with Ranking Member Elijah E. Cummings).

[35] *See, e.g.*, letter from Hon. Elijah Cummings, Ranking Member, House Comm. on Oversight and Govt. Reform, and Hon. Gerald Connolly, Ranking Member, Subcommittee on Government Operations, to Hon. J. Russell George, Treasury Inspector General for Tax Administration, Feb. 4, 2012.

The Honorable Elijah E. Cummings
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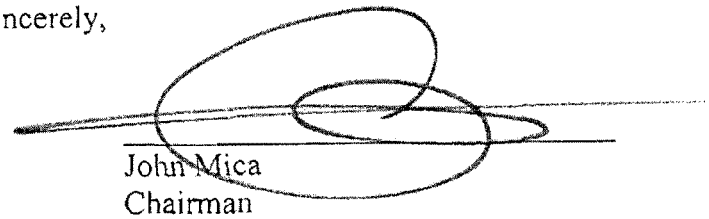
individual organization without informing the Majority Staff and even failed to disclose the contact after it became an issue during a subcommittee proceeding.

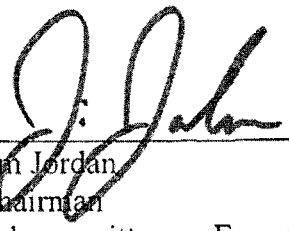
The public deserves a full and truthful explanation for these actions. We ask that you explain the full extent of you and your staff's communications with the IRS and why you chose to keep communications with the IRS from Majority Members and staff even after it became a subject of controversy.

Sincerely,

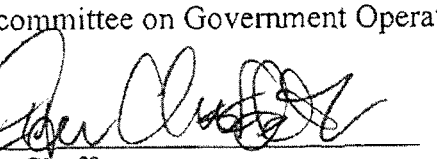
Darrell Issa
Chairman



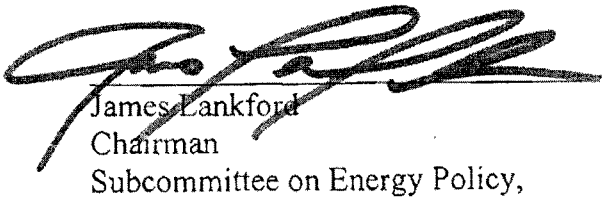
John Mica
Chairman
Subcommittee on Government Operations



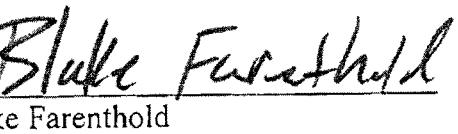
Jim Jordan
Chairman
Subcommittee on Economic Growth,
Job Creation, and Regulatory Affairs



Jason Chaffetz
Chairman
Subcommittee on National Security



James Lankford
Chairman
Subcommittee on Energy Policy,
Health Care and Entitlements



Blake Farenthold
Chairman
Subcommittee on Federal Workforce,
U.S. Postal Service and the Census

# VIII. MINORITY VIEWS

## Democratic Members of the Committee on Oversight and Government Reform

## OPPOSITION TO RESOLUTION BY CHAIRMAN DARRELL ISSA PROPOSING THAT THE HOUSE OF REPRESENTATIVES HOLD LOIS LERNER IN CONTEMPT OF CONGRESS

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
113TH CONGRESS
APRIL 10, 2014

## EXECUTIVE SUMMARY

These Minority Views are the opinions of Democratic Members of the Committee on Oversight and Government Reform in opposition to Chairman Darrell Issa's resolution proposing that the House of Representatives hold former Internal Revenue Service (IRS) employee Lois Lerner in contempt of Congress despite the fact that she exercised her rights under the Fifth Amendment of the Constitution.

We oppose the resolution because Chairman Issa fundamentally mishandled this investigation and this contempt proceeding. During this investigation, Chairman Issa has made reckless accusations with no evidence to back them up, routinely leaked partial excerpts of interview transcripts to promote misleading allegations, repeatedly ignored opposing viewpoints that are inconsistent with his political narrative, inconceivably rejected an offer by Ms. Lerner's attorney for her to testify with a simple one-week extension, and—in his rush to silence a fellow Committee Member—botched the contempt proceedings by disregarding key due process protections that are required by the Constitution, according to the Supreme Court.

### McCarthy Era Precedent for Chairman Issa's Actions

Chairman Issa has identified virtually no historical precedent for successfully convicting an American citizen of contempt after that person has asserted his or her Fifth Amendment right not to testify before Congress. The only era in recent memory when Congress attempted to do this was a disgraceful stain on our nation's history.

We asked the nonpartisan Congressional Research Service (CRS) to identify the last time Congress disregarded an individual's Fifth Amendment rights, held that person in contempt, and pursued a criminal prosecution. CRS went back more than four decades to identify a series cases spanning from 1951 to 1968. In these cases, the Senate Committee on Government Operations led by Senator Joseph McCarthy, the House Un-American Activities Committee, and other committees attempted to hold individuals in contempt even after they asserted their Fifth Amendment rights. In almost every case, juries refused to convict these individuals or Federal courts overturned their convictions.

We oppose Chairman Issa's efforts to re-create the Oversight Committee in Joe McCarthy's image, and we reject his attempts to drag us back to that shameful era in which Congress tried to strip away the Constitutional rights of American citizens under the bright lights of hearings that had nothing to do with responsible oversight and everything to do with the most dishonorable kind of partisan politics.

### Chairman Issa Could Have Obtained Lerner's Testimony

The unfortunate irony of Chairman Issa's contempt resolution is that the Committee could have obtained Ms. Lerner's testimony if the Chairman had accepted a reasonable request by her attorney for a simple one-week extension.

When Chairman Issa demanded—with only a week's notice—that Ms. Lerner appear before the Committee on March 5, her attorney had obligations out of town, so he requested an additional seven days to prepare his client to testify. If Chairman Issa had sought our input on this request, every one of us would have accepted it without a moment's hesitation. Anyone actually interested in obtaining Ms. Lerner's testimony would have done the same.

We wanted to question Ms. Lerner about the Inspector General's finding that she failed to conduct sufficient oversight of IRS employees in Cincinnati who developed inappropriate terms to screen tax-exempt applicants. We wanted to know why she did not discover the use of these terms for more than a year, as the Inspector General reported, and how new inappropriate terms were put in place after she had directed employees to stop using them. We also wanted to know why she did not inform Congress sooner about the use of these inappropriate terms.

Instead, Chairman Issa rejected this request without consulting any of us. Even worse, he went on national television and stated—inaccurately—that Ms. Lerner had agreed to testify without the extension, scuttling the offer from Ms. Lerner's attorney. This counterproductive action deprived the Committee of Ms. Lerner's testimony, deprived us of the opportunity to question her, and deprived the American people of information important to our inquiry.

**Independent Experts Conclude That Chairman Issa Botched Contempt Proceedings**

Based on an overwhelming number of legal assessments from Constitutional law experts across the country—and across the political spectrum—we believe that pressing forward with contempt based on the fatally flawed record compiled by Chairman Issa would undermine the credibility of the Committee and the integrity of the House of Representatives.

We do not believe that Ms. Lerner "waived" her Fifth Amendment rights during the Committee's hearing on May 22, 2013, when she gave a brief statement professing her innocence. Ms. Lerner's attorney wrote to the Committee before the hearing making clear her plan to exercise her Fifth Amendment right not to testify, yet Chairman Issa compelled her to appear in person anyway. Ms. Lerner relied on her attorney's advice at every stage of the proceeding, and there is no doubt about her intent. As the Supreme Court held in 1949, "testimonial waiver is not to be lightly inferred and the courts accordingly indulge every reasonable presumption against finding a testimonial waiver."

In addition, 31 independent legal experts have now come forward to conclude that Chairman Issa botched the contempt proceeding when he abruptly adjourned the Committee's hearing on March 5, 2014. In an effort to prevent Ranking Member Cummings from speaking, Chairman Issa rushed to end the hearing, ignored the Ranking Member's repeated requests for recognition, silenced the Ranking Member's microphone, and drew his hand across his neck while ordering Republican staff to "close it down."

According to more than two dozen Constitutional law experts who have reviewed the record before the Committee, the legal byproduct of Chairman Issa's actions on March 5 was that—in his rush to silence the Ranking Member—he failed to take key steps required by the Constitution, according to the Supreme Court. Specifically, these experts found that the

Chairman did not give Ms. Lerner a clear, unambiguous choice between answering his questions or being held in contempt because he failed to overrule Ms. Lerner's assertion of her Fifth Amendment rights and direct her to answer notwithstanding the invocation of those protections.

Chairman Issa has tried to minimize the significance of these independent experts, but their qualifications speak for themselves. They include two former House Counsels, three former clerks to Supreme Court justices, six former federal prosecutors, several attorneys in private practice, and law professors from Yale, Stanford, Harvard, Duke, and Georgetown, as well as the law schools of several Republican Committee Members, including Temple, University of Michigan, University of South Carolina, George Washington, University of Georgia, and John Marshall. They also include both Democrats and Republicans. For example:

- Morton Rosenberg, who served for 35 years as an expert in Constitutional law and contempt at CRS, concluded that "the requisite due process protections have not been met."

- Stanley M. Brand, who served as House Counsel from 1976 to 1983, concluded that Chairman Issa's failure to comply with Constitutional due process requirements "is fatal to any subsequent prosecution."

- Thomas J. Spulak, who served as House Counsel from 1994 to 1995, concluded that "I do not believe that the proper basis for a contempt of Congress charge has been established."

- J. Richard Broughton, a Professor at the University of Detroit Mercy School of Law and a member of the Republican National Lawyers Association, concluded that Ms. Lerner "would likely have a defense to any ensuing criminal prosecution for contempt, pursuant to the existing Supreme Court precedent."

After independent experts raised concerns about these Constitutional deficiencies, Chairman Issa asked the House Counsel's office to draft a memo justifying his actions. We have great respect for the dedicated attorneys in this office, and we recognize their obligation to represent their client, Chairman Issa. However, their memo must be understood for what it is—a legal brief written in preparation for defending Chairman Issa's actions in court.

Because of the gravity of these Constitutional issues and their implications for all American citizens, on June 26, 2013, Ranking Member Cummings asked Chairman Issa to hold a hearing with legal experts from all sides. He wrote: "I believe every Committee Member should have the benefit of testimony from legal experts—on both sides of this issue—to present and discuss the applicable legal standards and historical precedents regarding Fifth Amendment protections for witnesses appearing before Congress." He added: "rushing to vote on a motion or resolution without the benefit of even a single hearing with expert testimony would risk undercutting the legitimacy of the motion or resolution itself."

More than nine months later, Chairman Issa has still refused to hold a hearing with any legal experts, demonstrating again that he simply does not want to hear from anyone who disagrees with his position.

**Democrats Call for Full Release of All Committee Interview Transcripts**

Rather than jeopardizing Constitutional protections and continuing to waste taxpayer funds in pursuit of deficient contempt litigation, we call on the Committee to release copies of the full transcripts of all 38 interviews conducted during this investigation that have not been released to date.

For the past year, Chairman Issa's central accusation in this investigation has been that the IRS engaged in political collusion directed by—or on behalf of—the White House. Before the Committee received a single document or interviewed one witness, Chairman Issa went on national television and stated: "This was the targeting of the President's political enemies effectively and lies about it during the election year."

The full transcripts show definitively that the Chairman's accusations are baseless. They demonstrate that the White House played no role in directing IRS employees to use inappropriate terms to screen tax-exempt applicants, they show that there was no political bias behind those actions, and they explain in detail how the inappropriate terms were first developed and used.

Until now, Chairman Issa has chosen to leak selected excerpts from interview transcripts and withhold portions that directly contradict his public accusations. For example, Chairman Issa leaked cherry-picked transcript excerpts prior to an appearance on national television on June 2, 2013. When pressed on why he provided only portions instead of the full transcripts, he responded: "these transcripts will all be made public."

On June 9, 2013, Ranking Member Cummings asked Chairman Issa to "release publicly the transcripts of all interviews conducted by Committee staff."

This request included, for example, the full transcript of an interview conducted with a Screening Group Manager in Cincinnati who identified himself as a "conservative Republican." This official explained how one of his own employees first developed the inappropriate terms, and he explained that he knew of no White House involvement or political motivation. As he told us: "I do not believe that the screening of these cases had anything to do other than consistency and identifying issues that needed to have further development."

Although Chairman Issa had promised to release the transcripts, he responded to this request by calling the Ranking Member "reckless" and claiming that releasing the full transcripts would "undermine the integrity of the Committee's investigation." The Ranking Member asked Chairman Issa to "identify the specific text of the transcripts you believe should be withheld from the American public," but he refused. As a result, the Ranking Member released the full transcript of the Screening Group Manager, while deferring to the Chairman on the others.

It has been more than nine months since Chairman Issa promised on national television to release the full transcripts, and we believe it is now time for the Chairman to make good on his promise.

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## I. BACKGROUND

On May 14, 2013, the Treasury Inspector General for Tax Administration issued a report concluding that IRS employees used "inappropriate criteria" to screen applications for tax-exempt status.[1] The first line of the "results" section of the report found that this activity began in 2010 with employees in the Determinations Unit of the IRS office in Cincinnati.[2] The report stated that these employees "developed and used inappropriate criteria to identify applications from organizations with the words Tea Party in their names."[3] The report also stated that these employees "developed and implemented inappropriate criteria in part due to insufficient oversight provided by management."[4]

The Inspector General's report found that Lois Lerner, the former Director of Exempt Organizations at the IRS, did not discover the use of these inappropriate criteria until a year later—in June 2011—after which she "immediately" ordered the practice to stop.[5] Despite this direction, the Inspector General's report found that employees subsequently began using different inappropriate criteria "without management knowledge."[6] The Inspector General reported that "the criteria were not influenced by any individual or organization outside the IRS."[7]

After announcing that the Committee would be investigating this matter—but before the Committee received a single document or interviewed one witness—Chairman Issa went on national television and stated: "This was the targeting of the President's political enemies effectively and lies about it during the election year."[8]

To date, the IRS has produced more than 450,000 pages of documents, Committee staff have conducted 39 transcribed interviews of IRS and Department of the Treasury personnel, and the Committee has held five hearings. The IRS estimates that it has spent between $14 million and $16 million responding to Congressional investigations on this topic.[9]

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[1] Treasury Inspector General for Tax Administration, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (May 14, 2013) (2013-10-053).

[2] *Id.*

[3] *Id.*

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Issa on IRS Scandal: "Deliberate" Ideological Attacks*, CBS News (May 14, 2013) (online at www.cbsnews.com/videos/issa-on-irs-scandal-deliberate-ideological-attacks/).

[9] Letter from Commissioner John Koskinen, Internal Revenue Service, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Feb. 25, 2014).

On May 14, 2013, Chairman Issa invited Ms. Lerner to testify before the Committee on May 22, 2013.[10] On the same day, Chairman Issa and Chairman Jordan sent a second letter to Ms. Lerner accusing her of providing "false or misleading information" to the Committee, noting that her actions carry "potential criminal liability," and citing Section 1001 of Title 18 of the United States Code providing criminal penalties of up to five years in prison.[11]

The same week, House Speaker John Boehner also raised the specter of criminal prosecution, stating at a press conference: "Now, my question isn't about who's going to resign. My question is who's going to jail over this scandal?" He added: "Clearly someone violated the law."[12]

Based on these accusations of criminal conduct, Ms. Lerner's attorney wrote a letter on May 20, 2013, informing Chairman Issa that he had advised his client to exercise her Fifth Amendment right not to testify and requesting that she not be compelled to appear in person:

> Because Ms. Lerner is invoking her constitutional privilege, we respectfully request that you excuse her from appearing at the hearing. Congress has a longstanding practice of permitting a witness to assert the Fifth Amendment by affidavit or through counsel in lieu of appearing at a public hearing to do so. In addition, the District of Columbia Bar's Legal Ethics Committee has opined that it is a violation of the Bar's ethics rule to require a witness to testify before a congressional committee when it is known in advance that the witness will invoke the Fifth Amendment, and the witness's appearance will serve "no substantial purpose 'other than to embarrass, delay, or burden' the witness." D.C. Legal Ethics Opinion No. 358 (2011); see also D.C. Legal Ethics Opinion No. 31 (1977). Because Ms. Lerner will exercise her right not to answer questions related to the matters discussed in the TIGTA report or to her prior exchanges with the Committee, requiring her to appear at the hearing merely to assert her Fifth Amendment privilege would have no purpose other than to embarrass or burden her.[13]

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[10] Letter from Chairman Darrell Issa, House Committee on Oversight and Government Reform, to Lois Lerner, Director, Exempt Organizations, Internal Revenue Service (May 14, 2013).

[11] Letter from Chairman Darrell Issa, House Committee on Oversight and Government Reform, and Chairman Jim Jordan, Subcommittee on Economic Growth, Job Creation and Regulatory Affairs, House Committee on Oversight and Government Reform, to Lois Lerner, Director, Exempt Organizations Division, Internal Revenue Service (May 14, 2013).

[12] *Boehner on IRS Scandal: "Who Is Going to Jail?"*, CNN.com (May 15, 2013) (online at http://politicalticker.blogs.cnn.com/2013/05/15/boehner-on-irs-scandal-who-is-going-to-jail/).

[13] Letter from William W. Taylor, III, Counsel to Lois Lerner, to Chairman Darrell Issa, House Committee on Oversight and Government Reform (May 20, 2013).

Rather than accepting the letter from Ms. Lerner's counsel as proof of her intention to invoke her Fifth Amendment right not to testify, Chairman Issa demanded that Ms. Lerner appear before the Committee on May 22, 2013, pursuant to his unilateral subpoena.[14]

On the advice of counsel, Ms. Lerner complied with the subpoena by attending the hearing and invoking her Fifth Amendment rights in a brief statement professing her innocence:

> [M]embers of this committee have accused me of providing false information when I responded to questions about the IRS processing of applications for tax exemption.
>
> I have not done anything wrong. I have not broken any laws. I have not violated any IRS rules or regulations, and I have not provided false information to this or any other congressional committee. And while I would very much like to answer the committee's questions today, I've been advised by my counsel to assert my constitutional right not to testify or answer questions related to the subject matter of this hearing. After very careful consideration, I have decided to follow my counsel's advice and not testify or answer any of the questions today.
>
> Because I'm asserting my right not to testify, I know that some people will assume that I've done something wrong. I have not. One of the basic functions of the Fifth Amendment is to protect innocent individuals, and that is the protection I'm invoking today. Thank you.[15]

After she delivered her statement, Committee Member Trey Gowdy stated:

> She just testified. She just waived her Fifth Amendment right to privilege. You don't get to tell your side of the story and then not be subjected to cross examination. That's not the way it works. She waived her right of Fifth Amendment privilege by issuing an opening statement. She ought to stay in here and answer our questions.[16]

Later in the hearing, Chairman Issa agreed, telling Ms. Lerner:

> You have made an opening statement in which you made assertions of your innocence, assertions you did nothing wrong, assertions you broke no laws or rules. Additionally, you authenticated earlier answers to the IG. At this point I believe you have not asserted your rights, but, in fact, have effectively waived your rights.[17]

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[14] House Committee on Oversight and Government Reform, Subpoena to Lois Lerner (May 17, 2013); Letter from William Taylor, III, Counsel to Lois Lerner, to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (May 20, 2013).

[15] House Committee on Oversight and Government Reform, *Hearing on The IRS: Targeting Americans for their Political Beliefs* (May 22, 2013).

[16] *Id.*

[17] *Id.*

Chairman Issa then stated:

> For this reason, I have no choice but to excuse the witness subject to recall after we seek specific counsel on the questions of whether or not the constitutional right of the Fifth Amendment has been properly waived. Notwithstanding that, in consultation with the Department of Justice as to whether or not limited or use immunity could be negotiated, the witness and counsel are dismissed.[18]

Chairman Issa recessed the hearing instead of adjourning it, explaining:

> [I]t was brought up by Mr. Gowdy that, in fact, in his opinion as a longtime district attorney, Ms. Lerner may have waived her Fifth Amendment rights by addressing core issues in her opening statement and the authentication afterwards. I must consider this. So, although I excused Ms. Lerner, subject to a recall, I am looking into the possibility of recalling her and insisting that she answer questions in light of a waiver. For that reason and with your understanding and indulgence, this hearing stands in recess, not adjourned.[19]

On June 25, 2013, Chairman Issa announced that the Committee would hold a business meeting three days later to "consider a motion or resolution concerning whether Lois Lerner, the Director of Exempt Organizations at the Internal Revenue Service, waived her Fifth Amendment privilege against self-incrimination when she made a statement at the Committee hearing on May 22, 2013."[20]

On June 26, 2013, Ranking Member Cummings sent a letter to Chairman Issa requesting that the Committee first hold a hearing with Constitutional law experts who could testify about the legal issues involved with Fifth Amendment waivers. He wrote:

> [E]very Committee Member should have the benefit of testimony from legal experts—on both sides of this issue—to present and discuss the applicable legal standards and historical precedents regarding Fifth Amendment protections for witnesses appearing before Congress.[21]

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[18] *Id.*

[19] *Id.*

[20] House Committee on Oversight and Government Reform, *Oversight Committee to Vote on Lois Lerner's Potential Waiver of Fifth Amendment Right* (June 25, 2013) (online at http://oversight.house.gov/release/oversight-committee-to-vote-on-lois-lerners-potential-waiver-of-fifth-amendment-right/).

[21] Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (June 26, 2013) (online at: http://democrats.oversight.house.gov/press-releases/cummings-asks-issa-for-testimony-from-legal-experts-before-committee-vote-on-lerners-5th-amendment-rights/).

Chairman Issa disregarded this request, and the Committee voted on June 28, 2013, on a partisan basis to adopt a resolution concluding that Ms. Lerner waived her Fifth Amendment rights.[22]

On February 25, 2014, Chairman Issa wrote a letter to Ms. Lerner's attorney recalling her to appear before the Committee on March 5, 2014, pursuant to the subpoena that remained in effect.[23]

On February 26, 2014, Ms. Lerner's attorney wrote to the Committee stating that Ms. Lerner did not waive her Fifth Amendment rights when she appeared before the Committee in 2013, reaffirming that she would continue to decline to answer questions, and requesting that the Committee not require her to appear solely for the purpose of again invoking her Fifth Amendment rights.[24]

Again, Chairman Issa insisted that Ms. Lerner appear in person, and, on March 5, 2014, he asked Ms. Lerner a series of questions. She again asserted her right under the Fifth Amendment not to answer his questions.[25] When the Chairman finished asking questions, he adjourned the hearing without overruling Ms. Lerner's invocation of her Fifth Amendment rights or ordering her to answer his questions notwithstanding her assertion. As Chairman Issa rushed to end the hearing, he disregarded repeated requests for recognition by Ranking Member Cummings, silenced the Ranking Member's microphone, and drew his hand across his neck while ordering Republican staff to "close it down."[26]

## II. LACK OF HISTORICAL PRECEDENT FOR CHAIRMAN ISSA'S ACTIONS

Chairman Issa has cited virtually no historical precedent for successfully convicting an American citizen of contempt after that person asserts his or her Fifth Amendment right not to testify before Congress.

On March 20, 2014, the nonpartisan Congressional Research Service (CRS) issued a memorandum reviewing "previous instances in which a witness before a congressional committee was voted in contempt of Congress and then prosecuted for refusing to answer the committee's questions or produce documents pursuant to a subpoena after invoking the Fifth

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[22] House Committee on Oversight and Government Reform, Business Meeting, Resolution of the Committee on Oversight and Government Reform (June 28, 2013) (22 yeas, 17 nays).

[23] Letter from Chairman Darrell E. Issa, House Committee on Oversight and Government Reform, to William Taylor, III, Counsel to Lois Lerner (Feb. 25, 2014).

[24] Letter from William W. Taylor, III, Counsel to Lois Lerner, to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (Feb. 26, 2014).

[25] House Committee on Oversight and Government Reform, *Resumption of Hearing on The IRS: Targeting Americans for their Political Beliefs* (Mar. 5, 2014).

[26] *Id.*

Amendment privilege against self-incrimination."[27] The memo also analyzed whether any subsequent convictions for contempt of Congress under 2 U.S.C. §§ 192, 194 were upheld or overturned.[28] The CRS memorandum is included as Attachment A to these Minority Views.

The CRS memo identified 11 cases spanning from 1951 to 1968 in which congressional committees held individuals in contempt even after they asserted their Fifth Amendment rights. These include seven individuals held in contempt by the House Committee on Un-American Activities, two by the Special Committee on Organized Crime in Interstate Commerce, one by the Senate Committee on Foreign Relations, and one by the Senate Committee on Government Operations.[29] The vast majority of those congressional investigations involved alleged communist activities.

In almost every case, the witnesses were either acquitted or their convictions were overturned on appeal. According to the CRS memo, three of these individuals were not convicted of criminal contempt, and Federal courts overturned the convictions of six more individuals. In three cases, the Supreme Court itself overturned the convictions despite the findings of the congressional committees. In each case, the Court found that the committee had failed to establish a record sufficient to prove the elements of contempt of Congress.[30]

For example, in the case of *Quinn v. United States*, the defendant was held in contempt by the House Committee on Un-American Activities and convicted criminally. The Supreme Court overturned this conviction, finding that "the court below erred in failing to direct a judgment of acquittal."[31] The Court held that a committee must enable a witness to determine "with a reasonable certainty that the committee demanded his answer despite his objection."[32] The Court wrote: "Since the enactment of § 192, the practice of specifically directing a recalcitrant witness to answer has continued to prevail."[33]

In another example highlighted by CRS, *United States v. Hoag,* there are striking similarities between the actions of Senator Joseph McCarthy in 1954 and those of Chairman Issa in the present case. Senator McCarthy chaired the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations. During a hearing on August 6, 1954, Senator

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[27] Congressional Research Service, *Prosecutions for Contempt of Congress and the Fifth Amendment* (Mar. 20, 2014) (online at http://democrats.oversight.house.gov/uploads/CRS%20Contempt%20Report%20--%20Redacted.pdf) (noting the possibility that unpublished cases might not be included in its review).

[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] *Quinn v. United States,* 349 U.S. 155, 167 (1955).

[32] *Id.*

[33] *Id.* at 169.

McCarthy repeatedly questioned a woman named Diantha Hoag despite the fact that she had asserted her Fifth Amendment rights. The witness was a coil winder at the Westinghouse Company in Cheektowaga who made $1.71 an hour.[34]

Like Ms. Lerner, Ms. Hoag professed her innocence and then declined to answer subsequent questions. In response to questioning from Senator McCarthy, for example, Ms. Hoag stated: "I have never engaged in espionage nor sabotage. I am not so engaged. I will not so engage in the future. I am not a spy nor a saboteur."[35]

Like Chairman Issa, Senator McCarthy concluded that his witness had waived her Fifth Amendment rights without citing any independent legal opinions or experts. He explained to her at the time:

> For your benefit, you have waived any right as far as espionage is concerned by your volunteering the information you have never engaged in espionage. ... My position is, just for counsel's benefit, when the witness says she never engaged in espionage, then she waived the Fifth Amendment, not merely as to that question, but the entire field of espionage. Giving out information about Government work would be in that field.[36]

The Senate pursued criminal charges, Ms. Hoag was indicted, and she opted for a federal judge to preside over her case instead of a jury. The judge explained the issue before the court:

> The issue, therefore, is whether, by giving that answer, she waived her rights, under the Fifth Amendment, to the questions subsequently propounded. These, generally speaking, had to do with whether she had given information about her work to members of the Communist Party, whether she had discussed at a Communist Party meeting classified Government work, whether she received any clearance before 1947 to work on classified work, whether she did some espionage for the Communist Party seven and one-half years before, the character of work she was doing before 1947, and the city where she worked before her present job.[37]

The judge rejected Senator McCarthy's claims, found no Fifth Amendment waiver, and acquitted the witness of all charges, writing in an opinion in 1956:

> Having in mind the admonition in the recent case of *Emspak v. United States*, 1955, 349 U.S. 190, 196, 75 S.Ct. 687, 691, 99 L.Ed. 997, quoting from *Smith v. United States*, 337

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[34] Senate Permanent Subcommittee on Investigations of the Committee on Government Operations, *Hearing on Subversion and Espionage in Defense Establishments and Industry* (Aug. 6. 1954) (online at http://democrats.oversight.house.gov/uploads/McCarthy%20Hearing%2008-06-1954.pdf).

[35] *Id.*

[36] *Id.*

[37] *U.S. v. Hoag*, 142 F. Supp. 667, 668 (D.D.C. 1956) (online at www.courtlistener.com/dcd/cAQM/united-states-v-hoag/).

U.S. 137, 150, 69 S.Ct. 1000, 93 L.Ed. 1264, that "Waiver of constitutional rights * * * is not lightly to be inferred", and in the light of the controlling decisions of the Supreme Court and the Court of Appeals for this circuit, above referred to, I reach the conclusion that the defendant did not waive her privilege under the Fifth Amendment and therefore did not violate the statute in question in refusing to answer the questions propounded to her. Therefore, I find that she is entitled to a judgment of acquittal on all counts, and judgment will be entered accordingly.[38]

In addition to the cases cited by CRS, Committee staff identified additional cases from the same time period. In four of those cases, federal appellate courts overturned the convictions.[39] In one case, the federal appellate court affirmed the conviction. Unlike in the present case, however, the Chairman in that case gave the witness a direct, unequivocal order to answer the question: "You are ordered—with the permission of the committee the Chair orders and directs you to answer that question."[40]

## III. CHAIRMAN ISSA COULD HAVE OBTAINED LERNER'S TESTIMONY

The Committee could have obtained Ms. Lerner's testimony if Chairman Issa had accepted a request by her attorney for a simple one-week extension.

On February 25, 2014, Chairman Issa wrote a letter to Ms. Lerner's attorney recalling her to appear before the Committee on March 5, 2014, pursuant to the subpoena that remained in effect.[41] The next day, Ms. Lerner's attorney wrote to the Committee stating that Ms. Lerner did not waive her Fifth Amendment rights when she appeared before the Committee in 2013, that she would continue to decline to answer questions, and that the Committee should not require her to appear solely for the purpose of again invoking her Fifth Amendment rights.[42]

In the days that followed, Chairman Issa's staff communicated frequently with Ms. Lerner's attorney via email and telephone about various options, including potential hearing testimony. Ultimately, Ms. Lerner's attorney explained that Ms. Lerner was willing to testify if she could obtain a one-week extension to March 12. That extension would have allowed him to adequately prepare his client for the hearing since he had obligations out of town.

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[38] *Id.*

[39] *See, e.g., Singer v. United States*, 247 F.2d 535 (1957); *U.S. v. Doto,* 205 F.2d 416 (2d Cir. 1953); *Poretto v. U.S.,* 196 F.2d 392 (5th Cir. 1952); *Starkovich v. U.S.,* 231 F.2d 411 (9th Cir. 1956); *Aiuppa v. U.S.,* 201 F. 2d 287 (6th Cir. 1952).

[40] *Presser v. U.S.,* 284 F.2d 233 (D.C. Cir. 1960).

[41] Letter from Chairman Darrell E. Issa, House Committee on Oversight and Government Reform, to William W. Taylor, III, Counsel to Lois Lerner (Feb. 25, 2014).

[42] Letter from William W. Taylor, III, Counsel to Lois Lerner, to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (Feb. 26, 2014).

On Saturday, March 1, 2014, a staff member working for Chairman Issa wrote an email to Ms. Lerner's counsel stating: "I understand from [another Republican staffer] that Ms. Lerner is willing [sic] testify, and she is requesting a one week delay. In talking to the Chairman, wanted to make sure we had this right."[43] In response, Ms. Lerner's counsel wrote: "Yes."[44]

In a subsequent email, Chairman Issa's staffer memorialized a telephone conversation he had with Ms. Lerner's counsel, writing: "On Sat I indicated the Chairman would be in a position to confer with his members on that request on Monday."[45] It is unclear whether Chairman Issa ever discussed this offer with his Republican colleagues or Speaker Boehner, but he certainly did not discuss it with any Democratic Committee Members, who would have accepted it immediately.

Instead of consulting with Committee Members on the following Monday, Chairman Issa went on national television a day earlier, on Sunday, March 2, 2014, to announce—inaccurately—the "late breaking news" that Ms. Lerner would testify on March 5, 2014. He stated: "Quite frankly, we believe the evidence we've gathered causes her, in her best interest, to be someone who should testify."[46]

As a result of Chairman Issa's actions, the Committee lost the opportunity to obtain Ms. Lerner's testimony. Following Chairman Issa's interview and his inaccurate statements, Ms. Lerner's attorney, William W. Taylor III, explained why he advised Ms. Lerner against testifying:

> We lost confidence in the fairness and the impartiality of the forum. It is completely partisan. There was no possibility in my view that Ms. Lerner would be given a fair opportunity to speak or to answer questions or to tell the truth.[47]

Chairman Issa's staff subsequently claimed that they "didn't realize at the time that Taylor's offer was contingent on the delay."[48]

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[43] Email from Majority Staff, House Committee on Oversight and Government Reform, to William W. Taylor III, Counsel to Lois Lerner (Mar. 1, 2014). *See also Lawyer for IRS Official Denies Issa Claim Client Will Testify*, Washington Times (Mar. 3, 2014).

[44] Email from William W. Taylor, III, Counsel to Lois Lerner, to Majority Staff, House Committee on Oversight and Government Reform (Mar. 1, 2014)

[45] Email from Majority Staff, House Committee on Oversight and Government Reform, to William W. Taylor, III, Counsel to Lois Lerner (Mar. 3, 2014).

[46] *Fox News Sunday,* Fox News (Mar. 2, 2014) (online at www.foxnews.com/on-air/fox-news-sunday-chris-wallace/2014/03/02/rep-mike-rogers-deepening-crisis-ukraine-rep-darrell-issa-talks-irs-investigation-sen-rob#p//v/3281439472001).

[47] *Lerner Again Takes the Fifth in Tea Party Scandal*, USA Today (Mar. 5, 2014) (online at www.usatoday.com/story/news/politics/2014/03/05/lois-lerner-oversight-issa-irs/6070401/).

## IV. INDEPENDENT EXPERTS CONCLUDE THAT CHAIRMAN ISSA BOTCHED CONTEMPT PROCEEDINGS

Independent experts conclude that Ms. Lerner did not waive her Fifth Amendment rights by professing her innocence and that Chairman Issa botched the contempt proceeding when he abruptly adjourned the Committee's hearing on March 5 without taking key steps required by the Constitution. Chairman Issa has steadfastly refused to hold a hearing with any legal experts on these issues.

### A. No Waiver of Fifth Amendment Rights

Contrary to Chairman Issa's theory that Ms. Lerner waived her Fifth Amendment rights when she gave a brief statement professing her innocence, numerous legal experts have concluded that no Fifth Amendment waiver occurred.

On June 26, 2013, Ranking Member Cummings requested that the Chairman hold a hearing so Committee Members could hear directly from independent experts in Constitutional law before voting on a resolution offered by Chairman Issa concluding that Ms. Lerner waived her Fifth Amendment rights. Ranking Member Cummings wrote:

> I believe every Committee Member should have the benefit of testimony from legal experts—on both sides of this issue—to present and discuss the applicable legal standards and historical precedents regarding Fifth Amendment protections for witnesses appearing before Congress.[49]

His letter cited three noted experts who concluded, after reviewing the record before the Committee, that Ms. Lerner did not waive her Fifth Amendment rights:

- Stan Brand, the Counsel of the House of Representatives from 1976 to 1983, stated that Ms. Lerner was "not giving an account of what happened. She's saying, I'm innocent."

- Yale Kamisar, a former University of Michigan law professor and expert on criminal procedure, stated: "A denial is different than disclosing incriminating facts. You ought to be able to make a general denial, and then say I don't want to discuss it further."

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[48] *Darrell Issa Rankles Some Republicans in Handling IRS Tea Party Probe,* Politico (Mar. 27, 2014) (online at www.politico.com/story/2014/03/darrell-issa-irs-tea-party-investigation-105119.html).

[49] Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (June 26, 2013) (online at http://democrats.oversight.house.gov/images/user_images/gt/stories/EEC%20to%20Issa.Business%20Mtg.LLerner.pdf).

- James Duane, a professor at Regent University School of Law, stated: "it is well settled that they have a right to make a 'selective invocation,' as it's called, with respect to questions that they think might raise a meaningful risk of incriminating themselves."[50]

The Ranking Member concluded his request by writing:

> [A] hearing to obtain testimony from legal experts would help Committee Members consider this issue in a reasoned, informed, and responsible manner. In contrast, rushing to vote on a motion or resolution without the benefit of even a single hearing with expert testimony would risk undercutting the legitimacy of the motion or resolution itself.[51]

The Chairman disregarded this request and proceeded with the Committee's business meeting to consider his resolution. During debate on the resolution, Ranking Member Cummings introduced into the official record numerous opinions from legal experts addressing the issue.[52] In addition to the experts described above, Ranking Member Cummings entered into the record a statement from Daniel Richman, a law professor who served as the Chief Appellate Attorney in the U.S. Attorney's Office for the Southern District of New York, stating: "as a matter of law, Ms. Lerner did not waive her privilege and would not be found to have done so by a competent federal court."[53]

In contrast, Chairman Issa did not enter into the Committee's official record any legal opinions supporting his position. Although he referred to a confidential memorandum from House Counsel, he shared it with Committee Members only on condition that it not be disclosed to the public or entered into the record. Without disclosing the details of that opinion, it did not conclude that Ms. Lerner waived her Fifth Amendment rights beyond a reasonable doubt—the standard that is required for criminal contempt.

### B. Chairman's Offensive Conduct in Silencing Ranking Member

To date, 31 independent experts in Constitutional and criminal law have now come forward to conclude that Chairman Issa botched the contempt proceeding when he abruptly adjourned the Committee's hearing on March 5. In an effort to prevent Ranking Member Cummings from speaking, Chairman Issa rushed to end the hearing, ignored the Ranking

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[50] *Id.*

[51] *Id.*

[52] Opening Statement of Ranking Member Elijah E. Cummings, Business Meeting, Resolution of the Committee on Oversight and Government Reform (June 28, 2013) (online at http://democrats.oversight.house.gov/press-releases/opening-statement-of-ranking-member-elijah-e-cummings-full-committee-business-meeting/).

[53] Statement of Professor Daniel Richman, *Regarding Validity of Fifth Amendment Privilege Assertion by Lois Lerner* (June 27, 2013).

Member's repeated requests for recognition, silenced the Ranking Member's microphone, and drew his hand across his neck while ordering Republican staff to "close it down."[54]

Ranking Member Cummings intended to pose a procedural question concerning a potential proffer Ms. Lerner's counsel agreed to provide in response to a request from Chairman Issa's staff. Although Ranking Member Cummings was attempting to help the Committee obtain this information, Republican Committee Members left the room while the Ranking Member was attempting to speak.[55]

Chairman Issa's actions were so egregious that within hours of the hearing, the Democratic Members of the Committee sent a letter criticizing the Chairman's actions and insisting that he "apologize immediately to Ranking Member Cummings as a first step to begin the process of restoring the credibility and integrity of our Committee."[56]

Republicans also criticized Chairman Issa's actions. One senior Republican lawmaker stated: "You can be firm without being nasty; you can be effective without being snide—this is Darrell's personality. He is not the guy that you'd move next door to."[57] Similarly, Republican commentator Joe Scarborough stated: "It seemed like a bush league move to me."[58]

In addition, David Firestone, the Projects Director for the *New York Times* Editorial Board, wrote:

> For Mr. Issa, the fear of again being exposed as a fraud was greater than his fear of being accused of trampling on minority rights. When politicians reach for the microphone switch, you know they've lost the argument.[59]

Dana Milbank of the *Washington Post* wrote:

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[54] House Committee on Oversight and Government Reform, *Resumption of the Hearing on The IRS: Targeting Americans for Their Political Beliefs* (Mar. 5, 2014).

[55] Statement of Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, *Resumption of the Hearing on The IRS: Targeting Americans for Their Political Beliefs* (Mar. 5, 2014) (online at http://democrats.oversight.house.gov/press-releases/issa-turns-off-mic-tries-to-silence-cummings-and-democrats-at-irs-hearing/).

[56] Letter from Democratic Members to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (Mar. 5, 2014) (online at http://democrats.oversight.house.gov/press-releases/oversight-committee-democrats-unanimously-condemn-chairman-issas-actions-at-todays-irs-hearing/).

[57] *Issa Hands Dems the Mic*, The Hill (Mar. 6, 2014) (online at http://thehill.com/homenews/house/200162-issa-hands-dems-the-mic#ixzz2vJSTVh2e).

[58] *Morning Joe,* MSNBC (Mar. 6, 2014) (online at www.msnbc.com/morning-joe/watch/rep-cummings-please-do-not-shut-my-mic-down-184217155964).

[59] David Firestone, *Why Darrell Issa Turned Off the Mic*, New York Times (Mar. 6, 2014).

> Even by today's low standard of civility in Congress, calling a hearing and then not allowing minority lawmakers to utter a single word is rather unusual. But Issa, now in the fourth and final year of his chairmanship, is an unusual man.[60]

The day after Chairman Issa's actions, Rep. Marcia Fudge offered a Privileged Resolution on the House floor, which stated:

> That the House of Representatives strongly condemns the offensive and disrespectful manner in which Chairman Darrell E. Issa conducted the hearing of the House Committee on Oversight and Government Reform on March 5, 2014, during which he turned off the microphones of the Ranking Member while he was speaking and adjourned the hearing without a vote or a unanimous consent agreement.[61]

On March 6, 2014, the House tabled the resolution by a vote of 211 to 186.[62] That evening, Chairman Issa telephoned Ranking Member Cummings and apologized for his conduct.[63]

On March 14, 2014, Congressman Dan Kildee offered another Privileged Resolution on the House floor condemning the Chairman's "offensive and disrespectful behavior" and calling on Chairman Issa to issue a public apology from the well of the House.[64] That resolution was also tabled.[65]

### C. "Fatal" Constitutional Defect in Rushed Adjournment

According to more than two dozen Constitutional law experts who have now reviewed the record before the Committee, the legal byproduct of Chairman Issa's actions on March 5 was

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[60] Dana Milbank, *Darrell Issa Silences Democrats and Hits a New Low*, Washington Post (Mar. 5, 2014).

[61] Privileged Resolution Against the Offensive Actions of Chairman Darrell E. Issa (Mar. 6, 2014).

[62] Vote to Table Privileged Resolution Against the Offensive Actions of Chairman Darrell E. Issa (Mar. 6, 2014).

[63] House Committee on Oversight and Government Reform Democrats, *Cummings Responds to Issa's Apology* (Mar. 6, 2014) (online at http://democrats.oversight.house.gov/press-releases/cummings-responds-to-issas-apology1/).

[64] Office of Rep. Dan Kildee, *Congressman Dan Kildee Introduces Privileged Resolution in House to Condemn Repeated Offensive Behavior by Chairman Darrell Issa* (Mar. 14, 2014) (online at http://dankildee.house.gov/media-center/press-releases/congressman-dan-kildee-introduces-privileged-resolution-in-house-to).

[65] *Dems Hold Up Pictures on House Floor to Protest Issa*, The Hill (Mar. 13, 2014) (online at http://thehill.com/blogs/floor-action/votes/200779-house-rejects-dem-resolution-to-force-issa-apology#ixzz2y9SObYL6).

that—in his rush to silence the Ranking Member—he failed to take key steps required by the Constitution, according to the Supreme Court.

Specifically, these experts found that the Chairman did not give Ms. Lerner a clear, unambiguous choice between answering the Committee's questions or being held in contempt because he failed to overrule Ms. Lerner's assertion of her Fifth Amendment rights and failed to direct her to answer notwithstanding the invocation of those protections.

In an independent analysis provided to the Committee, Morton Rosenberg, who spent 35 years as a Specialist in American Public Law with CRS, stated:

> I conclude that the requisite legal foundation for a criminal contempt of Congress prosecution mandated by the Supreme Court rulings in *Quinn, Emspak and Bart* have not been met and that such a proceeding against Ms. Lerner under 2 U.S.C. 194, if attempted, will be dismissed.[66]

Mr. Rosenberg stated that because Chairman Issa did not reject Ms. Lerner's invocation of her Fifth Amendment rights and did not direct her to answer notwithstanding her assertion, the foundation for holding her in contempt of Congress has not been met. He explained:

> More significantly, the Chairman's opening remarks were equivocal about the consequence of a failure by Ms. Lerner to respond to his questions. As indicated above, he simply stated that "the Committee *may proceed to consider* whether she will be held in contempt." Combined with his closing remarks in the May 2013 hearing, where he indicated he would be discussing the possibility of granting the witness statutory immunity with the Justice Department to compel her testimony, there could be no certainty for the witness and her counsel that a contempt prosecution was inevitable.[67]

Stan Brand, who served as House Counsel from 1976 to 1983, joined in Mr. Rosenberg's analysis, stating:

> [A] review of the record from last week's hearing reveals that at no time did the Chair expressly overrule the objection and order Ms. Lerner to answer on pain of contempt. Making it clear to the witness that she has a clear cut choice between compliance and assertion of the privilege is an essential element of the offense and the absence of such a demand is fatal to any subsequent prosecution.[68]

After independent legal experts raised concerns regarding Chairman Issa's procedural errors in the March 5 hearing, the Chairman asked the House Counsel's office to draft a memo justifying his actions. On March 26, 2014, Chairman Issa released an opinion issued by House

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[66] Statement of Morton Rosenberg, *Constitutional Due Process Prerequisites for Contempt of Congress Citations and prosecutions* (Mar. 9, 2014).

[67] *Id.*

[68] *Id.*

Counsel a day earlier stating that "it is this Office's considered opinion that Mr. Rosenberg is wrong that 'the requisite legal foundation for a criminal contempt of Congress prosecution [of Ms. Lerner] ... ha[s] not been met and that such a proceeding against [her] under 2 U.S.C. [§] 19[2], if attempted, will be dismissed.'"[69]

In addition, Chairman Issa and other Committee members attempted to minimize the significance of these expert opinions. For example, in a letter to Ranking Member Cummings on March 14, 2014, Chairman Issa suggested that Mr. Rosenberg and Mr. Brand were not independent. He wrote: "Your position was based on an allegedly 'independent legal analysis' provided by your lawyer, Stanley M. Brand, and your 'Legislative Consultant,' Morton Rosenberg."[70] Similarly, Committee Member Trey Gowdy stated: "I am not persuaded by the legal musings of two attorneys."[71]

Despite these claims, the number of independent legal experts who have now come forward with opinions concluding that Chairman Issa's contempt case is deficient has increased dramatically to 31. They include two former House Counsels, three former clerks to Supreme Court justices, six former federal prosecutors, several attorneys in private practice, and law professors from Yale, Stanford, Harvard, Duke, and Georgetown, as well as the law schools of several Republican Committee Members, including Temple, University of Michigan, University of South Carolina, George Washington, University of Georgia, and John Marshall. They also include both Democrats and Republicans.

For example, Thomas J. Spulak, who served as House Counsel from 1994 to 1995, concluded that "I do not believe that the proper basis for a contempt of Congress charge has been established." He explained: "I have deep respect for Chairman Darrell Issa and his leadership of the Committee. But the matter before the Committee is a relatively rare occurrence and must be dispatched in a constitutionally required manner for the good of this and future Congresses." He provided his opinion "out of my deep concerns for the constitutional integrity of the U.S. House of Representatives, its procedures and its future precedents."[72]

J. Richard Broughton, a former federal prosecutor and now a Professor at the University of Detroit Mercy Law School and member of the Republican National Lawyers Association, concluded:

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[69] Memorandum from Office of General Counsel, United States House of Representatives, to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (Mar. 25, 2014) (bracketed text and ellipse in original).

[70] Letter from Chairman Darrell E. Issa to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Mar. 14, 2014).

[71] *Democrats: Darrell Issa Botches Rules in Run-up to IRS Contempt Vote,* Politico (Mar. 12, 2014) (online at www.politico.com/story/2014/03/darrell-issa-irs-contempt-vote-lois-lerner-democrats-104611.html).

[72] Letter from Thomas Spulak, former General Counsel to the House of Representatives, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Mar. 14, 2014).

> Like any other criminal sanction, however, the contempt power must be used prudently, not for petty revenge or partisan gain. It should also be used with appropriate respect for countervailing constitutional rights and with proof that the accused contemnor possessed the requisite level of culpability in failing to answer questions. ... Absent such a formal rejection and subsequent directive, the witness—here, Ms. Lerner—would likely have a defense to any ensuing criminal prosecution for contempt, pursuant to the existing Supreme Court precedent. Those who are concerned about the reach of federal power should desire legally sufficient proof of a person's culpable mental state before permitting the United States to seek and impose criminal punishment.[73]

Robert Muse, a partner at Stein, Mitchell, Muse & Cipollone, LLP, Adjunct Professor of Congressional Investigations at Georgetown University Law Center, and formerly the General Counsel to the Special Senate Committee to Investigate Hurricane Katrina, concluded: "Procedures and rules exist to provide justice and fairness. In his rush to judgment, Issa forgot to play by the rules."[74]

Louis Fisher, a former Senior Specialist in Separation of Powers at CRS, Adjunct Scholar at the CATO Institute, and Scholar in Residence at the Constitution Project, concluded:

> Why would a delay of one week interfere with the committee's investigation that has thus far taken nine and a half months? Why not, in pursuit of facts and evidence, probe this opportunity to obtain information from her, particularly when Chairman Issa and the committee have explained that she has important information that is probably not available from any other witness? With his last question, Chairman Issa raised the "expectation" that she would cooperate with the committee if given an additional week. Under these conditions, I think the committee has not made the case that she acted in contempt. If litigation resulted, courts are likely to reach the same conclusion.[75]

Julie Rose O'Sullivan, a former federal prosecutor and law clerk to Supreme Court Justice Sandra Day O'Connor and current Professor at the Georgetown University Law Center, concluded:

> The Supreme Court has spoken—repeatedly—on point. Before a witness may be held in contempt under 18 U.S.C. sec. 192, the government bears the burden of showing "criminal intent—in this instance, a deliberate, intentional refusal to answer." *Quinn v. United States*, 349 U.S. 155, 165 (1955). This intent is lacking where the witness is not faced with an order to comply or face the consequences. Thus, the government must show that the Committee "clearly apprised [the witness] that the committee demands his

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[73] Statement of Professor J. Richard Broughton, *Regarding Legal Issues Related to Possible Contempt of Congress Prosecution* (Mar. 17, 2014).

[74] Statement of Robert Muse (Mar. 13, 2014).

[75] Statement of Louis Fisher, *Regarding Possible Contempt of Lois Lerner* (Mar. 14, 2014).

> answer notwithstanding his objections" or "there can be no conviction under [sec.] 192 for refusal to answer that question." *Id.* at 166. Here, the Committee at no point directed the witness to answer; accordingly, no prosecution will lie. This is a result demanded by common sense as well as the case law. "Contempt" citations are generally reserved for violations of court or congressional orders. One cannot commit contempt without a qualifying "order."[76]

Joshua Levy, a partner at Cunningham & Levy who teaches Congressional Investigations at Georgetown University Law Center, concluded: "Contempt cannot be born from a game of gotcha. Supreme Court precedents that helped put an end to the McCarthy era ruled that Congress cannot initiate contempt proceedings without first giving the witness due process."[77]

Samuel W. Buell, a former federal prosecutor who teaches at Duke University Law School, concluded: "Seeking contempt now on this record thus could accomplish nothing but making the Committee look petty and uninterested in getting to the merits of the matter under investigation."[78]

A full set of the independent legal opinions from all of these Constitutional law experts is included as Attachment B to these Minority Views.

### D. House Counsel's Retroactive Defense of Chairman's Actions

After Ranking Member Cummings warned that independent legal experts had identified Constitutional deficiencies with Chairman Issa's actions at the May 5 hearing, House Speaker John Boehner stated: "I and the House Counsel reject the premise of Mr. Cummings's letter."[79] When asked if he would provide a copy of the House Counsel opinion he referenced, Speaker Boehner first directed reporters to ask "the appropriate people." When they explained that he was the appropriate person, he answered: "I am sure that we will see an opinion at some point."[80]

It appears that, at the time Speaker Boehner made these statements, the House Counsel had not issued any written opinion. To date, no House Counsel opinion prepared before the March 5 hearing has been made available to the members of the Committee, particularly one stating that Ms. Lerner could be successfully prosecuted for contempt if Chairman Issa did not overrule her assertion of Fifth Amendment rights and order her to answer his questions

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[76] Statement of Julie Rose O'Sullivan (Mar. 12, 2014).

[77] Statement of Joshua Levy (Mar. 12, 2014).

[78] Statement of Samuel Buell (Mar. 12, 2014).

[79] Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Speaker of the House John Boehner (Mar. 14, 2014) (online at http://democrats.oversight.house.gov/press-releases/cummings-asks-speaker-boehner-for-copy-of-counsel-opinion-on-lerner-contempt-proceedings/#sthash.jpaw602R.dpuf).

[80] *Id.*

notwithstanding her assertion. Instead, it appears that Chairman Issa sought an opinion justifying his actions only after the March 5 hearing when independent legal experts raised concerns about these Constitutional deficiencies.[81]

Independent legal experts have rejected the arguments raised by House Counsel in defense of Chairman Issa's actions. The House Counsel memo stated that contempt charges could be brought against Ms. Lerner because the Chairman had ensured that Ms. Lerner was "'clearly apprised that the [C]ommittee demand[ed] [her] answer[s] [to its questions] notwithstanding h[er Fifth Amendment] objections.' *Quinn*, 349 U.S. at 166." The House Counsel's memo cited two reasons for this opinion:

> First, the Committee formally rejected her Fifth Amendment claims and expressly advised her of its determination (a fact that she, through her attorney, acknowledged prior to her appearance at the reconvened hearing on March 5, 2014).
>
> Second, the Committee Chairman thereafter advised Ms. Lerner in writing that the Committee expected her to answer its questions, and advised her orally, at the reconvened hearing on March 5, 2014, that she faced the possibility of being held in contempt of Congress if she continued to decline to provide answers.[82]

According to Mr. Rosenberg, "both assertions are meritless." Regarding the Committee's June 28, 2013, partisan vote that Ms. Lerner waived her Fifth Amendment right, Mr. Rosenberg explained:

> Nothing in the language of the Committee's June 28, 2013 resolution can be even be remotely construed as an *explicit* rejection of Ms. Lerner's Fifth Amendment privilege at the May 22 hearing. It is solely and exclusively concerned with the question whether Ms. Lerner voluntarily waived her privilege at that hearing. A rejection of a future claim in a resumed hearing may be implicit in the resolution's language, but that rejection, under *Quinn, Emspak,* and *Bart,* would have had to have been expressly directed at the particular claim when raised by the witness.[83]

Mr. Rosenberg also addressed the second argument in the House Counsel memorandum:

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[81] Memo from the Office of General Counsel, United States House of Representatives, to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (Mar. 25, 2014) (explaining that Chairman Issa requested that the office "analyze a March 12, 2014 memorandum, prepared by former Congressional Research Service ('CRS') attorney Morton Rosenberg.").

[82] Memo from the Office of General Counsel, United States House of Representatives, to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (Mar. 25, 2014).

[83] Statement of Morton Rosenberg, *Comments on House General Counsel Opinion* (Apr. 6, 2014).

> [T]he Chairman's verbal observation at the end of his opening remarks at the March 5 hearing that if she continued to refuse to answer questions, "the [C]ommittee may proceed to consider whether she should be held in contempt." Thus the "indirect" support relies predominantly on the incorrect factual and legal premise that the Committee had communicated a rejection of her privilege claims in its waiver resolution and ambiguous statements by members and the Chairman about the risk of contempt. But, again, when the March 5 questioning took place, the Chairman never expressly overruled her objections or demanded a response.[84]

Former House Counsel Tom Spulak also "fully" agreed with Mr. Rosenberg's opinion that Chairman Issa failed to establish a record to support contempt charges. He explained:

> The fact of the matter, however, is that based on relevant Supreme Court rulings, the pronouncement must occur with the witness present so that he or she can understand the finality of the decision, appreciate the consequences of his or her continued silence, and have an opportunity to decide otherwise at that time.[85]

Mr. Spulak also explained that, although he agreed that there is no "fixed verbal formula" to convey to a witness the Committee's decision regarding questioning, Chairman Issa's equivocal statements to Ms. Lerner on March 5 did not meet the standard of "specifically directing a recalcitrant witness to answer" outlined by the Supreme Court.[86] He wrote:

> I believe that the Court does require that whatever words are used be delivered to the witness in a direct, unequivocal manner in a setting that allows the witness to understand the seriousness of the decision and the opportunity to continue to insist on invoking the privilege or revoke it and respond to the Committee's questioning. That, as I understand the facts, did not occur.[87]

## V. DEMOCRATS CALL FOR FULL RELEASE OF ALL COMMITTEE INTERVIEW TRANSCRIPTS

Instead of pursuing deficient contempt litigation that will continue to waste taxpayer funds, Democratic Members of the Oversight Committee now call on the Committee to officially release copies of the full transcripts of all 38 interviews conducted by Committee staff during this investigation that have not been released to date.

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[84] *Id.*

[85] Letter from Thomas Spulak, former General Counsel to the House of Representatives, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Mar. 14, 2014).

[86] *Quinn v. United States*, 349 U.S. 155, 169 (1955).

[87] Letter from Thomas Spulak, former General Counsel to the House of Representatives, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Mar. 14, 2014).

For the past year, Chairman Issa's central accusation in this investigation has been that the IRS engaged in political collusion directed by—or on behalf of—the White House. Before the Committee received a single document or interviewed one witness, Chairman Issa went on national television and stated: "This was the targeting of the President's political enemies effectively and lies about it during the election year."[88]

Until now, Chairman Issa has chosen to leak selected excerpts from the Committee's interviews and withhold portions that directly contradict his public accusations. The interview transcripts show definitively that the Chairman's accusations are baseless and that the White House played absolutely no role in directing IRS employees to use inappropriate terms to screen applicants for tax exempt status.

For example, on June 6, 2013, Committee staff interviewed the Screening Group Manager in the Cincinnati Determinations Unit who worked at the IRS for 21 years as a civil servant and supervised a team of several Screening Agents in that office. He answered questions from Committee staff directly and candidly for more than five hours. When asked by Republican Committee staff about his political affiliation, he answered that he is a "conservative Republican."[89]

The Screening Group Manager stated that there was no political motivation in the decision to screen and centralize the review of the Tea Party cases:

Q: In your opinion, was the decision to screen and centralize the review of Tea Party cases the targeting of the President's political enemies?

A: I do not believe that the screening of these cases had anything to do other than consistency and identifying issues that needed to have further development.[90]

The Screening Group Manager also explained that he had no reason to believe that any officials from the White House were involved in any way:

Q: Do you have any reason to believe that anyone in the White House was involved in the decision to screen Tea Party cases?

A: I have no reason to believe that.

Q: Do you have any reason to believe that anyone in the White House was involved in the decision to centralize the review of Tea Party cases?

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[88] *Issa on IRS Scandal: "Deliberate" Ideological Attacks*, CBS News (May 14, 2013) (online at www.cbsnews.com/videos/issa-on-irs-scandal-deliberate-ideological-attacks/).

[89] House Committee on Oversight and Government Reform, Interview of Screening Group Manager, at 28-29 (June 6, 2013).

[90] *Id.* at 139-140.

A: I have no reason to believe that.[91]

Instead, the Screening Group Manager explained how one of his own employees flagged the first "Tea Party" case for additional review because it needed further development, and that he elevated the case to his management because it was "high-profile" and to ensure consistent review:

> We would need to know how frequently or—of the total activities, 100 percent of the activities, what portion of those total activities would you be dedicating to political activities. And in this particular case, it wasn't addressed, it was just mentioned, and, to me, that says it needs to have further development, and it could be good, you know. Once the information is all received, it could be fine.[92]

After elevating the original case to his management, the Screening Group Manager explained that he made the decision on his own to instruct his Screening Agents to identify additional similar cases. He said: "There was no—there was no—no one said to make a search."[93] He explained that he did this to ensure "consistency" in the treatment of applications with similar fact patterns.[94]

The Screening Group Manager informed Committee staff that he did not discover that his employee had used inappropriate search terms until June 2, 2011, and he did not provide that information to his superiors before June of 2011. The Inspector General's report confirmed that Ms. Lerner did not learn of the use of the inappropriate criteria until June of 2011, a fact that also was corroborated by Committee interviews.[95]

On June 2, 2013, Chairman Issa leaked selected excerpts of transcribed interviews with IRS employees prior to an appearance on CNN's "State of the Union" with Candy Crowley. When pressed to release the full the transcripts, Chairman Issa promised to do so:

> ISSA: These transcripts will all be made public. The killer about this thing is—
>
> CROWLEY: Why don't you put the whole thing out? Because you know our problem really here is—and you know that your critics say that Republicans and you in particular sort of cherry pick information that go to your foregone conclusion, and so it worries us to kind of to put this kind of stuff out. Can you not put the whole transcript out?

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[91] *Id.* at 141.

[92] *Id.* at 146.

[93] *Id.* at 63.

[94] *Id.*

[95] Treasury Inspector General for Tax Administration, *Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review* (May 14, 2013); House Committee on Oversight and Government Reform, Interview of Acting Director of Rulings and Agreements (May 21, 2013).

ISSA: The whole transcript will be put out. We understand—these are in real time. And the administration is still—they're paid liar, their spokesperson, picture behind, he's still making up things about what happens in calling this local rogue. There's no indication—the reason that Lois Lerner tried to take the fifth is not because there is a rogue in Cincinnati, it's because this is a problem that was coordinated in all likelihood right out of Washington headquarters and we're getting to proving it.[96]

On June 9, 2013, Ranking Member Cummings wrote to Chairman Issa requesting that the Committee "release publicly the transcripts of all interviews conducted by Committee staff."[97] This request included the transcripts of the "conservative Republican" Screening Group Manager as well as all other officials interviewed by the Committee.

On June 11, 2013, Chairman Issa wrote to Ranking Member Cummings reversing his previous position and arguing instead that releasing the transcripts publicly would be "reckless" and "undermine the integrity of the Committee's investigation."[98]

On June 13, 2013, Ranking Member Cummings wrote to Chairman Issa seeking clarification about his reversal and asking him to "identify the specific text of the transcripts you believe should be withheld from the American public."[99]

Over the following week, Chairman Issa reversed his position again and allowed select reporters to come into the Committee's offices to review full, unredacted transcripts from several interviews with employees other than the Screening Group Manager. For example:

- *USA Today* reported that Chairman Issa allowed its reporters to review the full transcript of IRS official Holly Paz: "USA TODAY reviewed all 222 pages of the transcript of her interview."

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[96] *State of the Union,* CNN (June 2, 2013) (online at http://www.youtube.com/watch?v=9zuQU-Mqll4&feature=youtu.be).

[97] Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (June 9, 2013) (online at http://democrats.oversight.house.gov/press-releases/conservative-republican-manager-in-charge-of-irs-screeners-in-cincinnati-denies-any-white-house-involvement-or-political-influence-in-screening-tea-party-cases/).

[98] Letter from Chairman Darrell E. Issa to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (June 11, 2013).

[99] Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (June 13, 2013) (online at http://democrats.oversight.house.gov/press-releases/new-cummings-letter-to-issa-identify-specific-transcript-text-you-want-withheld-from-public/).

- The *Wall Street Journal* reported that he allowed its reporters to review the full Paz transcript: "The Wall Street Journal reviewed the transcript of her interview in recent days."

- *Reuters* reported that he allowed its reporters to review the full Paz transcript as well: "Reuters has reviewed the interview transcript."

- The *Associated Press* reported that he allowed its reporters to review not only the full Paz transcript, but also transcripts of interviews with two other IRS officials: "The Associated Press has reviewed transcripts from three interviews—with Paz and with two agents, Gary Muthert and Elizabeth Hofacre."

- *Politico* also reported that its reporters were given access to full transcripts of interviews "conducted by the House Oversight and Government Reform Committee and reviewed by POLITICO."[100]

In light of the Chairman's actions, Ranking Member Cummings publicly released the full transcript of the Screening Group Manager on June 18, 2013, explaining:

> This interview transcript provides a detailed first-hand account of how these practices first originated, and it debunks conspiracy theories about how the IRS first started reviewing these cases. Answering questions from Committee staff for more than five hours, this official—who identified himself as a "conservative Republican"—denied that he or anyone on his team was directed by the White House to take these actions or that they were politically motivated.[101]

Democratic Committee Members have been asking for more than nine months for the public release of all of the Committee's interview transcripts and believe it is now time for the Chairman to make good on his promise to do so.

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[100] Letter from Ranking Member Elijah E. Cummings to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (June 18, 2013) (online at http://democrats.oversight.house.gov/images/user_images/gt/stories/2013-06-18.EEC%20to%20Issa.pdf).

[101] *Id.*

# ATTACHMENT A

# MEMORANDUM FROM THE NONPARTISAN CONGRESSIONAL RESEARCH SERVICE ON McCARTHY ERA PRECEDENT

**Congressional Research Service**
Informing the legislative debate since 1914

**MEMORANDUM** March 20, 2014

**To:** House Committee on Oversight and Government Reform
Attention: [redacted]

**From:** [redacted] Legislative Attorney, [redacted]

**Subject:** **Prosecutions for Contempt of Congress and the Fifth Amendment**

This memorandum responds to your request for information about invocation of the Fifth Amendment privilege against self-incrimination in congressional hearings and contempt of Congress. Specifically, you asked for previous instances in which a witness before a congressional committee was voted in contempt of Congress and then prosecuted for refusing to answer the committee's questions or produce documents pursuant to a subpoena after invoking the Fifth Amendment privilege against self-incrimination. Additionally, you asked for information on whether any subsequent convictions for contempt of Congress under 2 U.S.C. §§ 192, 194 were upheld or overturned.

The table below provides the requested information based on searches of federal court cases in the LexisNexis database.[1] Although a number of search terms were used, it is possible that some relevant cases were missed. Additionally, other relevant cases may be unpublished, and therefore, not searchable in an available database. Cases involving witnesses who asserted other constitutional privileges, not including the Fifth Amendment privilege against self-incrimination, and were subsequently held in contempt of Congress are not included in the table. The cases are organized first by court authority (Supreme Court, followed by circuit courts and district courts) and then in chronological order.

[1] Several searches using different combinations of the following search terms were conducted: "2 U.S.C. 192," 192, committee, contempt, "contempt of Congress," "Fifth Amendment," subpoena, and subpena. Additionally, relevant cases appearing on the Shepard's report for 2 U.S.C § 192 were searched.

**Table 1. Published Cases of Prosecutions for Contempt of Congress Following a Fifth Amendment Privilege Assertion**

| Case | Court and Date | Congressional Committee | Was the Witness Convicted? | Disposition of Convictions | Case Excerpt |
|---|---|---|---|---|---|
| Quinn v. United States, 349 U.S. 155 (1955). | Supreme Court May 23, 1955 | Comm. on Un-American Activities | Yes | Overturned | "...we must hold that petitioner's references to the Fifth Amendment were sufficient to invoke the privilege and that the court below erred in failing to direct a judgment of acquittal." *Quinn*, 349 U.S. at 165. |
| Emspak v. United States, 349 U.S. 190 (1955). | Supreme Court May 23, 1955 | Comm. on Un-American Activities | Yes | Overturned | "...in the instant case, we do not think that petitioner's "No" answer can be treated as a waiver of his previous express claim under the Fifth Amendment." *Emspak*, 349 U.S. at 197. |
| Bart v. United States, 349 U.S. 219 (1955). | Supreme Court May 23, 1955 | Comm. on Un-American Activities | Yes | Overturned | "Because of the consistent failure to advise the witness of the committee's position as to his objections, petitioner was left to speculate about the risk of possible prosecution for contempt; he was not given a clear choice between standing on his objection and compliance with a committee ruling. Because of this defect in laying the necessary foundation for a prosecution under § 192, petitioner's conviction cannot stand under the criteria set forth more fully in Quinn v. United States..." *Bart*, 319 U.S. at 223. |
| McPhaul v. United States, 364 U.S. 372 (1960). | Supreme Court Nov. 14, 1960 | Comm. on Un-American Activities | Yes | Upheld | "The Fifth Amendment did not excuse petitioner from producing the records of the Civil Rights Congress, for it is well settled that "books and records kept 'in a representative rather than in a personal capacity cannot be the subject of the personal privilege against self-incrimination, even though production of the papers might tend to incriminate [their keeper] personally.'"" *McPhaul*, 364 U.S. at 380. |

| Case | Court and Date | Congressional Committee | Was the Witness Convicted? | Disposition of Convictions | Case Excerpt |
|---|---|---|---|---|---|
| Marcello v. United States, 196 F.2d 437 (1952). | Fifth Circuit April 22, 1952 | Special Committee on Organized Crime in Interstate Commerce (The Kefauver Committee) | Yes | Overturned | "We are clear that there was no waiver by the appellant of the privilege against self-incrimination in this case. The judgment appealed from is reversed, and a judgment of acquittal here rendered." *Marcello*, 196 F.2d at 445. |
| Jackins v. United States, 231 F.2d 405 (1956). | Ninth Circuit March 8, 1956 | Comm. on Un-American Activities | Yes | Overturned | "Jackins' claim of privilege must be sustained since in the setting here described 'it was not 'perfectly clear, from a careful consideration of all the circumstances in the case, that the witness (was) mistaken, and that the answer(s) cannot possibly have such tendency' to incriminate.'... The judgment is reversed with directions to enter a judgment of acquittal upon all counts." *Jackins*, 231 F.2d at 410. |
| Fagerhaugh v. United States, 232 F.2d 803 (1956). | Ninth Circuit April 24, 1956 | Comm. on Un-American Activities | Yes | Overturned | "We believe that Quinn v. United States requires a reversal of this conviction as it appears that the Committee did not indicate its refusal to accept the claim of privilege against self-incrimination, and did not 'demand' that the witness answer the question... The judgment is reversed with directions to enter a judgment of acquittal." *Fagerhaugh*, 232 F.2d at 805. |
| Shelton v. United States, 404 F.2d 1292 (1968). | D.C. Circuit August 14, 1968 | Comm. on Un-American Activities | Yes | Upheld | "...the subpoena did not call upon Mr. Shelton to produce any personal papers, but only those of Klan organizations... The privilege accordingly was not available to him as a basis for refusing to produce." *Shelton*, 404 F.2d at 1301. |

| Case | Court and Date | Congressional Committee | Was the Witness Convicted? | Disposition of Convictions | Case Excerpt |
|---|---|---|---|---|---|
| United States v. Jaffe, 98 F. Supp. 191 (1951). | District Court for the D.C. Circuit May 28, 1951 | Senate Comm. on Foreign Relations | No | n/a | "...having claimed the privilege granted to him by the Fifth Amendment to the Constitution, he should not have been required to give such testimony, and, therefore, it is the judgment of the Court that, in refusing to do so, he is not guilty of contempt." *Jaffe*, 98 F. Supp. at 198. |
| United States v. Fischetti, 103 F. Supp. 796 (1952). | District Court for the D.C. Circuit March 11, 1952 | Senate Special Comm. to Investigate Organized Crime in Interstate Commerce (The Kefauver Committee) | No | n/a | "...the Court is of the opinion that it is required to grant the defendant's motion for judgment of acquittal." Fischetti, 103 F. Supp. at 799. |
| United States v. Hoag, 142 F. Supp. 667 (1956). | District Court for the D.C. Circuit July 6, 1956 | Senate Committee on Government Operations | No | n/a | "...I reach the conclusion that the defendant did not waive her privilege under the Fifth Amendment and therefore did not violate the statute in question in refusing to answer the questions propounded to her. Therefore, I find that she is entitled to a judgment of acquittal on all counts." *Hoag*, 142 F. Supp. at 673. |

**Source:** Searches of LexisNexis database

# ATTACHMENT B

# OPINIONS FROM 31 INDEPENDENT LEGAL EXPERTS IDENTIFYING CONSTITUTIONAL DEFICIENCIES IN CONTEMPT PROCEEDINGS

## Experts Opinions on Lois Lerner Contempt Proceedings


| | | |
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| | Additional Statement of Morton Rosenberg, Esq. Addressing Chairman Issa's House Counsel Memo | Page 59 |

1. **Morton Rosenberg spent 35 years as a former Specialist in American Public Law at the non-partisan Congressional Research Service and is a former Fellow at the Constitution Project.**

2. **Stanley M. Brand, who served as General Counsel for the House of Representatives from 1976 to 1983, wrote that he agreed with Mr. Rosenberg's analysis.**

**March 12, 2014**

**To: Honorable Elijah E. Cummings**
**Ranking Minority Member,**
**House Committee on Oversight**
**And Government Reform**

**From: Morton Rosenberg**
**Legislative Consultant**

**Re: Constitutional Due Process Prerequisites for Contempt of Congress Citations and Prosecutions**

**You have asked that I discuss whether, at this point in the questioning of Ms. Lois Lerner, a witness in the Committee's ongoing investigation of alleged irregularities by the Internal Revenue Service (IRS) in the processing of applications by certain organizations for tax-exempt status, the appropriate constitutional foundation has been established for the Committee to initiate the process that would lead to her prosecution for contempt of Congress. My understanding of the requirements of the law in this area leads me to conclude that the requisite due process protections have not been met.**

**My views in this matter have been informed by my 35 years of work as a Specialist in American Public Law with the American Law Division of the Congressional Research Service, during which time I concentrated particularly on constitutional and practice issues arising from interbranch conflicts over information disclosures in the course of congressional oversight and investigations of executive agency implementation of their statutory missions. My understandings have been further refined by my preparation for testimony on investigative matters before many committees, including your Committee, and by the research involved in the writing and publication by the Constitution Project in 2009 of a monograph entitled "When Congress Comes Calling: A Primer on the Principles, Practices, and Pragmatics of Legislative Inquiry."**

**Briefly, the pertinent background of the situation is as follows. Ms. Lerner, who was formerly the Director of Exempt Organizations of the Tax-Exempt and Government Entities Division of IRS, was subpoenaed to testify**

**before the Committee on May 22, 2013. She appeared and after taking the oath presented an opening statement but thereafter refused to answer questions by Members, invoking her Fifth Amendment right against self-incrimination. The question was raised whether Ms. Lerner had effectively waived the privilege by her voluntary statements. On advice of counsel she continued to assert the privilege. Afterward, on dismissing Ms. Lerner and her counsel, Chairman Issa remarked "For this reason I have no choice but to excuse this witness subject to recall after we seek specific counsel on the question whether or not the constitutional right of the Fifth Amendment has been properly waived. Notwithstanding that, in consultation with the Department of Justice as to whether or not limited or use of unity [sic: immunity] could be negotiated, the witness and counsel are dismissed." Thus at the end of her initial testimony, there had been no express Committee determination rejecting her privilege claim nor an advisement that she could be subject to a criminal contempt proceeding. There was, however, some hint of granting statutory use immunity that would compel her testimony. On June 28, 2013, the Committee approved a resolution rejecting Ms. Lerner's privilege claim on the ground that she had waived it by her voluntary statements.**

**Still subject to the original subpoena, Ms. Lerner was recalled by the Committee on March 5, 2014. Chairman Issa's opening statement recounted the events of the May 22, 2013 hearing and the fact of the Committee's finding that she had waived her privilege. He then stated that "if she continues to refuse to answer questions from Members while under subpoena, the Committee may proceed to consider whether she will be held in contempt." In answer to the first question posed by Chairman Issa, Ms. Lerner expressly stated in response that she had been advised by counsel that she had not waived her privilege and would continue to invoke her privilege, which she did in response to all the Chair's further questions. After his final question Chairman Issa adjourned the hearing without allowing further questions or remarks by Committee members, and granted her "leave of said Committee," stating, "Ms. Lerner, you're released." At no time during his questioning did the Chair explicitly demand an answer to his questions, expressly overrule her claim of privilege, or make it clear that her refusal to respond would result in a criminal contempt prosecution.**

In 1955 the Supreme Court announced in a trilogy of rulings that in order to establish a proper legal foundation for a contempt prosecution, a jurisdictional committee must disallow the constitutional privilege objection and clearly apprise the witness that an answer is demanded. A witness will not be forced to guess whether or not a committee has accepted his or her objection. If the witness is not able to determine "with a reasonable degree of certainty that the committee demanded his answer despite his objection," and thus is not presented with a "clear-cut choice between compliance and non-compliance, between answering the question and risking the prosecution for contempt," no prosecution for contempt may lie. *Quinn v. United States,* 349 U.S. 155, 166, 167 (1955); *Empsak v. United States,* 349 U.S. 190, 202 (1955). In *Bart v. United States,* 349 U.S. 219 (1955), the Court found that at no time did the committee overrule petitioner's claim of self-incrimination or lack of pertinency, nor was he indirectly informed of the committee's position through a specific direction to answer. A committee member's suggestion that the chairman advise the witness of the possibility of contempt was rejected. The Court concluded that the consistent failure to advise the witness of the committee's position as to his objections left him to speculate about this risk of possible prosecution for contempt and did not give him a clear choice between standing with his objection and compliance with a committee ruling. Citing *Quinn,* the Court held that this defect in laying the necessary constitutional foundation for a contempt prosecution required reversal of the petitioner's conviction. 349 U.S. at 221-23. Subsequent appellate court rulings have adhered to the High Court's guidance. See, e.g., *Jackins v. United States,* 231 F. 2d 405 (9th Cir. 1959); *Fagerhaugh v. United* States, 232 F. 2d 803 (9th Cir. 1959).

In sum, at no stage in this proceeding did the witness receive the requisite clear rejections of her constitutional objections and direct demands for answers nor was it made unequivocally certain that her failure to respond would result in criminal contempt prosecution. The problematic Committee determination that Ms. Lerner had waived her privilege, see, e.g., *McCarthy v. Arndstein,* 262 U.S. 355. 359 (1926) and *In re Hitchings,* 850 F. 2d 180 (4th Cir. 1980), occurred after the May 2013 hearing. Chairman Issa's opening statement at the March 5, 2014 hearing, while referencing the waiver decision did not make it a substantive element of the Committee's current concern and was never mentioned again during his interrogation of the witness. More significantly, the Chairman's opening remarks were equivocal about the consequence of a failure

by Ms. Lerner to respond to his questions. As indicated above, he simply stated that "the Committee *may proceed to consider* whether she will be held in contempt." Combined with his closing remarks in the May 2013 hearing, where he indicated he would be discussing the possibility of granting the witness statutory immunity with the Justice Department to compel her testimony, there could be no certainty for the witness and her counsel that a contempt prosecution was inevitable. Finally, it may be reiterated that the Chairman during the course of his most recent questioning never expressly rejected Ms. Lerner's objections nor demanded that she respond.

I conclude that the requisite legal foundation for a criminal contempt of Congress prosecution mandated by the Supreme Court rulings in *Quinn, Emspak and Bart* have not been met and that such a proceeding against Ms. Lerner under 2 U.S.C. 194, if attempted, will be dismissed. Such a dismissal will likely also occur if the House seeks civil contempt enforcement.

You also inquire whether the waiver claim raised in the May 2013 hearing can be raised in a subsequent hearing to which Ms. Lerner might be again subpoenaed and thereby prevent her from invoking her Fifth Amendment rights. The courts have long recognized that a witness may waive the Fifth Amendment right to self-incrimination in one proceeding, and then invoke it later at a different proceeding on the same subject. See, e.g., *United States v. Burch*, 490 F.2d 1300, 1303 (8th Cir. 1974); *United States v. Licavoli,* 604 F. 2d 613, 623 (9th Cir. 1979); *United States v. Cain,* 544 F. 2d 1113,1117 (1st Cir. 1976); *In re Neff,* 206 F. 2d 149, 152 (3d Cir. 1953). See also, *United States v. Allman,* 594 F. 3d 981 (8th Cir. 2010) (acknowledging the continued vitality of the "same proceeding" doctrine: "We recognize that there is ample precedent for the rule that the waiver of the Fifth Amendment privilege in one proceeding does not waive that privilege in a subsequent proceeding."). Since Ms. Lerner was released from her subpoena obligations by the final adjournment of the Committee's hearing, a compelled testimonial appearance at a subsequent hearing on the same subject would be a different proceeding.

In addition, Stanley M. Brand has reviewed this memorandum and fully subscribes to its contents and analysis.

**Mr. Brand served as General Counsel for the House of Representatives from 1976 to 1983 and was the House's chief legal officer responsible for representing the House, its members, officers, and employees in connection with legal procedures and challenges to the conduct of their official activities. Mr. Brand represented the House and its committees before both federal district and appellate courts, including the U.S. Supreme Court, in actions arising from the subpoena of records by the House and in contempt proceedings in connection with congressional demands.**

**In addition to the analysis set forth above, Mr. Brand explained that a review of the record from last week's hearing reveals that at no time did the Chair expressly overrule the objection and order Ms. Lerner to answer on pain of contempt. Making it clear to the witness that she has a clear cut choice between compliance and assertion of the privilege is an essential element of the offense and the absence of such a demand is fatal to any subsequent prosecution.**

**3. Joshua Levy, a partner in the firm of Cunningham and Levy and an Adjunct Professor of Law at the Georgetown University Law Center who teaches Congressional Investigations, said:**

"Contempt cannot be born from a game of gotcha. Supreme Court precedents that helped put an end to the McCarthy era ruled that Congress cannot initiate contempt proceedings without first giving the witness due process. For example, Congress cannot hold a witness in contempt without directing her to answer the questions being asked, overruling her objections and informing her, in clear terms, that her refusal to answer the questions will result in contempt. None of that occurred here."

**4. Julie Rose O'Sullivan, a former federal prosecutor and law clerk to Supreme Court Justice Sandra Day O'Connor and current a Professor at the Georgetown University Law Center, said:**

"The Supreme Court has spoken—repeatedly—on point. Before a witness may be held in contempt under 18 U.S.C. sec. 192, the government bears the burden of showing 'criminal intent—in this instance, a deliberate, intentional refusal to answer.' *Quinn v. United States*, 349 U.S. 155, 165 (1955). This intent is lacking where the witness is not faced with an order to comply or face the consequences. Thus, the government must show that the Committee 'clearly apprised [the witness] that the committee demands his answer notwithstanding his objections' or 'there can be no conviction under [sec.] 192 for refusal to answer that question.' *Id.* at 166. Here, the Committee at no point directed the witness to answer; accordingly, no prosecution will lie. This is a result demanded by common sense as well as the case law. 'Contempt' citations are generally reserved for violations of court or congressional orders. One cannot commit contempt without a qualifying 'order.'"

**5. Samuel W. Buell, a former federal prosecutor and current Professor of Law at Duke University Law School, said:**

"[T]he real issue for me is the pointlessness and narrow-mindedness of proceeding in this way. Contempt sanctions exist for the purpose of overcoming recalcitrance to testify. One would rarely if ever see this kind of procedural Javert-ism from a federal prosecutor and, if one did, one would expect it to be condemned by any federal judge before whom such a motion were made.

In federal court practice, contempt is not sought against grand jury witnesses as a kind of gotcha penalty for invocations of the Fifth Amendment privilege that might turn out to contain some arguable formal flaw. Contempt is used to compel witnesses who have asserted the privilege and then continued to refuse to testify after having been granted immunity. Skirmishing over the form of a privilege invocation is a wasteful sideshow. The only question that matters, and that would genuinely interest a judge, is whether the witness is in fact intending to assert the privilege and in fact has a legitimate basis to do so. The only questions of the witness that therefore need asking are the kind of questions (and a sufficient number of them) that will make the record clear that the witness is not going to testify. Usually even that process is not necessary and a representation from the witness's counsel will do.

Again, contempt sanctions are on the books to serve a simple and necessary function in the operation of legal engines for finding the truth, and not for any other purpose. Any fair and level-headed judge is going to approach the problem from that perspective. Seeking contempt now on this record thus could accomplish nothing but making the Committee look petty and uninterested in getting to the merits of the matter under investigation."

**6. Robert Muse, a partner at Stein, Mitchell, Muse & Cipollone, LLP, Adjunct Professor of Congressional Investigations at Georgetown Law, and formerly the General Counsel to the Special Senate Committee to Investigate Hurricane Katrina, said:**

"Procedures and rules exist to provide justice and fairness. In his rush to judgment, Issa forgot to play by the rules."

**7. Professor Lance Cole of Penn State University's Dickinson School of Law, said:**

**"I agree with the analysis and conclusions of Mr. Rosenberg, and the additional comments by Mr. Brand. I also have a broader concern about seeking criminal contempt sanctions against Ms. Lerner. I do not believe criminal contempt proceedings should be utilized in a situation in which a witness is asserting a fundamental constitutional privilege and there is a legitimate, unresolved legal issue concerning whether or not the constitutional privilege has been waived. In that situation initiating a civil subpoena enforcement proceeding to obtain a definitive judicial resolution of the disputed waiver issue, prior to initiating criminal contempt proceedings, would be preferable to seeking criminal contempt sanctions when there is a legitimate issue as to whether the privilege has been waived and that legal issue inevitably will require resolution by the judiciary. Pursuing a criminal contempt prosecution in this situation, when the Committee has available to it the alternatives of either initiating a civil judicial proceeding to resolve the legal dispute on waiver or granting the witness statutory immunity, is unnecessary and could have a chilling effect on the constitutional rights of witnesses in congressional proceedings."**

**8. Renée Hutchins is a former federal prosecutor, current appellate defense attorney, and Associate Professor of Law at the University of Maryland Carey School of Law. She said:**

***"America is a great nation in no small part because it is governed by the rule of law. In a system such as ours, process is not a luxury to be afforded the favored or the fortunate. Process is essential to our notion of equal justice. In a contempt proceeding like the one being threatened the process envisions, at minimum, a witness who has refused to comply with a valid order. But a witness cannot refuse to comply if she has not yet been told what she must do. Our system demands more. Before the awesome powers of government are brought to bear against individual Americans we must be vigilant, now and always, to ensure that the process our fellow citizens confront is a fair one."***

## 9. Colin Miller is an Associate Professor of Law at the University of South Carolina School of Law whose areas of expertise include Evidence, as well as Criminal Law and Procedure. He wrote:

In this case, the witness invoked the Fifth Amendment privilege, the Committee Chairman recessed the hearing, and the Chairman now wants to hold the witness in contempt based upon the conclusion that she could not validly invoke the privilege. Under these circumstances, the witness cannot be held in contempt. Instead, the only way that the witness could be held in contempt is if the Committee Chairman officially ruled that the Fifth Amendment privilege was not available, instructed the witness to answer the question(s), and the witness refused.

As the United States District Court for the Northern District of Illinois noted in *United States ex rel. Berry v. Monahan*, 681 F.Supp. 490, 499 (N.D.Ill. 19988),

> If the law were otherwise, a person with a meritorious fifth amendment objection might not assert the privilege at all simply because of fear that the judge would find the invocation erroneous and hold the person in contempt. In that scenario, the law would throw the person back on the horns of the "cruel trilemma" for in order to insure against the contempt sanction the person would have to either lie or incriminate himself.

The Northern District of Illinois is not alone in this conclusion. Instead, it cited as support:

> *Traub v. United States*, 232 F.2d 43, 49 (D.C.Cir.1955) ("no contempt can lie unless the refusal to answer follows an adverse ruling by the court on the claim of the privilege or clear direction thereafter to answer" (*citation omitted*)); *Carlson v. United States*, 209 F.2d 209, 214 (1st Cir.1954) ("the claim of privilege calls upon the judge to make a ruling whether the privilege was available in the circumstances presented; and if the judge thinks not, then he instructs the witness to answer"). *See also Wolfe v. Coleman*, 681 F.2d 1302, 1308 (11th Cir.1982) (the petition for the writ in a contempt case failed because the court had found the petitioner's first amendment objection invalid before ordering him to answer); *In re Investigation Before the April 1975 Grand Jury*, 531 F.2d 600, 608 (D.C.Cir.1976) (a witness is subject to contempt if the witness refuses to answer a grand jury question previously found not to implicate the privilege). *Compare Maness v. Meyers*, 419 U.S. 449, 459, 95 S.Ct. 584, 591, 42 L.Ed.2d 574 (1975) (" once the court has ruled, counsel and others involved in the action must abide by the ruling and comply with the court's orders" (emphasis added)); *United States v. Ryan*, 402 U.S. 530, 533, 91 S.Ct. 1580, 1582, 29 L.Ed.2d 85 (1971) (after the court rejects a witness' objections, the witness is confronted with the decision to comply or be held in contempt if his objections to testifying are rejected again on appeal).

Most importantly, it cited the Supreme Court's opinion in *Quinn v. United States*, 349 U.S. 155 (1955), in support

> The Supreme Court in *Quinn v. United States*, 349 U.S. 155, 75 S.Ct. 688, 99 L.Ed. 964 (1955) held that in congressional-committee hearings the committee must clearly dispose of the witness' fifth amendment claim and order that witness to answer before the committee invokes its contempt power. Quinn v. United States, 349 U.S. 155, 167–68, 75 S.Ct. 668, 675–76, 99 L.Ed.

> 964 (1955). According to *Quinn*, "unless the witness is clearly apprised that the committee demands his answer notwithstanding his objections," the witness' refusal to answer is not contumacious because the requisite intent element of the congressional-contempt statute is lacking. Id. at 165–66, 75 S.Ct. at 674–75 (discussing 2 U.S.C. § 192). The court further stated that "a clear disposition of the witness' objection is a prerequisite to prosecution for contempt."

Therefore, *Quinn* clearly stands for the proposition that the witness in this case cannot be held in contempt of COurt.

Sincerely,

Colin Miller
University of South Carolina School of Law

**10. Thomas Crocker is a Distinguished Professor of Law at the University of South Carolina School of Law who teaches courses in teaches Constitutional Law, Criminal Procedure, as well as seminars in Jurisprudence.**

21 March 2014

Honorable Elijah E. Cummings
Ranking Minority Member
House Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Honorable Cummings:

After reviewing materials relevant to the recent appearance of Ms. Lois Lerner as a witness before the Committee, I conclude that that no legal basis exists for holding her in contempt. Specifically, I agree with the legal analysis and conclusions Morton Rosenberg reached in the memo provided to you. Let me add a few thoughts as to why I agree.

The Fifth Amendment privilege against self-incrimination has deep constitutional roots. As the Supreme Court explained, the privilege is "of great value, a protection to the innocent though a shelter to the guilty, and a safeguard against heedless, unfounded, or tyrannical prosecutions." Quinn v. United States, 349 U.S. 155, 161-62 (1955). Because of its importance, procedural safeguards exist to ensure that government officials respect "our fundamental values," which "mark[] an important advance in the development of our liberty." Kastigar v. United States, 406 U.S. 441, 444 (1972). As the Supreme Court made clear in a trio of cases brought in response to congressional contempt proceedings, before a witness can be held in contempt under 18 U.S.C. sec. 192, a committee must "directly overrule [a witness's] claims of self incrimination." Bart v. United States, 349 U.S. 219, 222 (1955). "[U]nless the witness is clearly apprised that the committee demands his answer notwithstanding his objections, there can be no conviction under sec. 192 for refusal to answer that question." Quinn, 349 U.S. at 166. Without this clear appraisal, and without a subsequent refusal, the statutory basis for violation of section 192 does not exist. This reading of the statutory requirements under section 192, required by the Supreme Court, serves the constitutional purpose of protecting the values reflected in the Fifth Amendment.

Reviewing the proceedings before the House Oversight Committee, it is clear that Chairman Darrell Issa did not overrule the witness's assertion of her Fifth Amendment privilege. As a result, the witness was "never confronted with a clear-cut choice between compliance and noncompliance, between answering the question and risking prosecution for contempt." Empsak v. United States, 349 U.S. 190, 202 (1955). Without that choice, then under section 192, the witness lacks the relevant intent, and therefore does not meet an essential element necessary for a claim of contempt. This is not a close or appropriately debatable case.

In addition, I understand that arguments have been made that Ms. Lerner waived her Fifth Amendment privilege in making an opening statement to the Committee and in authenticating earlier answers to the Inspector General. Although I would conclude that Ms. Lerner did not waive her right to invoke a Fifth Amendment privilege against testifying, resolution of this legal question is not relevant to the question of whether the proper foundation exists for a contempt of Congress claim under section 192. Even if the witness had waived her privilege, Chairman Issa failed to follow the minimal procedural safeguards required by the Supreme Court as a prerequisite for a contempt charge.

Sincerely,

Thomas P. Crocker, J.D., Ph.D.
Distinguished Professor of Law

**11. Thomas Spulak served as General Counsel of the House of Representatives from 1994-1995. He wrote in a statement to Ranking Member Cummings:**

THOMAS J. SPULAK, ESQ.

1700 P ENNSYLVANIA A VENUE, N. W.

202-661-7948

March 20, 2014

Honorable Elijah Cummings

Ranking Member

WASHINGTON, DC 20006

Committee on Oversight and Government Reform

U. S. House of Representatives

24 71 Rayburn Office Building

Washington, DC 20515

Dear Representative Cummings:

I write to you in response to your request for my views on the matter involving Ms. Lois Lerner currently pending before the Committee on Oversight and Government Reform (the "Committee"). I do so out of my deep concerns for the constitutional integrity of the U.S. House of Representatives, its procedures and its future precedents. I have no association with the matter whatsoever.

I have read reports in the Washington Post regarding the current proceedings involving Ms. Lois Lerner and especially the question of whether an appropriate and adequate constitutional predicate has been laid to serve as the basis for a charge of contempt of Congress. In my opinion, it has not.

I have deep respect for Chairman Darrell Issa and his leadership of the Committee. But the matter before the Committee is a relatively rare occurrence and must be dispatched in a constitutionally required manner for the good of this and future

Congresses.

I have reviewed the memorandum that Mr. Morton Rosenberg presented to you on March 12'h of this year. As you may know, Mr. Rosenberg is one of the leading scholars on the U.S. Congress, its procedures and the constitutional foundation. He has been relied upon by members and staff of both parties for over 30 years. I first met Mr. Rosenberg in the early 1980s when I was Staff Director and General Counsel of the House Rules Committee. He was an important advisor to the members of the Rules Committee then and has been for years after. While perhaps there have been times when some may have disagreed with his position, I know of no instance where his objectivity or commitment-to the U.S. Congress has ever been questioned.

Based on my experience, knowledge and understanding of the facts, I fully agree with Mr. Rosenberg's March 12th memorandum.

I have also reviewed Chairman Issa's letter to you dated March 14th of this year. His letter is very compelling and clearly states the reasons that he believes a proper foundation for a charge of contempt of Congress has been laid. For example, he indicates that on occasions, Ms. Lerner knew or should have known that the Committee had rejected her Fifth Amendment privilege claim, either through the Chairman's letter to her attorney or to reports of the same that appeared in the media. The fact of the matter, however, is that based on relevant Supreme Court rulings, the pronouncement must occur with the witness present so that he or she can understand the finality of the decision, appreciate the consequences of his or her continued silence, and have an opportunity to decide otherwise at that time.

I agree with the Chairman's reading of *Quinn v. United States* in that there is no requirement to use any "fixed verbal formula" to convey to the witness the Committee's decision. But, I believe that the Court does require that whatever words are used be delivered to the witness in a direct, unequivocal manner in a setting that allows the

witness to understand the seriousness of the decision and the opportunity to continue to insist on invoking the privilege or revoke it and respond to the Committee's questioning. That, as I understand the facts, did not occur.

In conclusion, I quote from Mr. Rosenberg's memorandum and agree with him when he said-

> ... [A}t no stage in [the}proceeding did the witness receive the requisite clear rejections of her constitutional objections and direct demands for answers nor was it made unequivocally certain that her failure to respond would result in criminal contempt prosecution.

Accordingly, I do not believe that the proper basis for a contempt of Congress charge has been established. Ultimately, however, this will be determined by members of the Judicial Branch.

Sincerely,

Thomas J. Spulak

**12. J. Richard Broughton is a Professor of Law at the University of Detroit Mercy School of Law and a member of the Republican National Lawyers Association.**

**MEMORANDUM**

**TO:** Donald K. Sherman, Counsel
House Oversight & Government Reform Committee
**FROM:** J. Richard Broughton, Associate Professor of Law
University of Detroit Mercy School of Law
**RE:** Legal Issues Related to Possible Contempt of Congress Prosecution
**DATE:** March 17, 2014

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You have asked for my thoughts regarding the possibility of a criminal contempt prosecution pursuant to 2 U.S.C. §§ 192 & 194 against Lois Lerner, in light of the assertion that the Committee violated the procedures necessary for permitting such a prosecution. My response here is intended to be objective and non-partisan, and is based on my own research and expertise. I am a full-time law professor, and my areas of expertise include Constitutional Law, Criminal Law, and Criminal Procedure, with a special focus on Federal Criminal Law. I previously served as an attorney in the Criminal Division of the United States Department of Justice during the Bush Administration. These views are my own and do not necessarily reflect the views of the University of Detroit Mercy or anyone associated with the University.

The power of Congress to hold a witness in contempt is an important tool for carrying out the constitutional functions of the legislative branch. Lawmaking and oversight of the other branches require effective fact-finding and the cooperation of those who are in a position to assist the Congress in gathering information that will help it to do its job. Like any other criminal sanction, however, the contempt power must be used prudently, not for petty revenge or partisan gain. It should also be used with appropriate respect for countervailing constitutional rights and with proof that the accused contemnor possessed the requisite level of culpability in failing to answer questions. The Supreme Court has held that a recalcitrant witness's culpable mental state can only be established after the Committee has unequivocally rejected a witness's objection to a question and then demanded an answer to that question, even where the witness asserts the Fifth Amendment privilege. Absent such a formal rejection and subsequent directive, the witness – here, Ms. Lerner – would likely have a defense to any ensuing criminal prosecution for contempt, pursuant to the existing Supreme Court precedent. Those who are concerned about the reach of federal power should desire legally sufficient proof of a person's culpable mental state before permitting the United States to seek and impose criminal punishment.

Whether the precedents are sound, or whether they require such formality, however, is another matter. As set forth in the Rosenberg memorandum of March 12, 2014, the relevant cases are *Quinn v. United States*, 349 U.S. 155 (1955), *Emspak v. United States*, 349 U.S. 190 (1955), and *Bart v. United States*, 349 U.S. 219 (1955). *Quinn* contains the most detailed explanation of the procedural requirements for using section 192. Mr. Rosenberg's thoughtful memo correctly describes the holding in these cases. Still, those cases are not a model of clarity and their application to the Lerner matter is subject to some greater exploration.

One could argue that the Committee satisfied the rejection-then-demand requirement here, when we view the May 22, 2013 and March 5, 2014 hearings in their totality. At the May 22, 2013 hearing, Chairman Issa indicated to Ms. Lerner that he believed she had waived the

privilege (a contention bolstered by Rep. Gowdy at that hearing). The Committee then voted 22 to 17 on June 28, 2013 in favor of a resolution stating that she had waived the privilege. The Chairman then referred to this resolution in his opening statement on March 5, 2014, in the presence of Ms. Lerner and her counsel. And at each hearing, Chairman Issa continued to ask questions of her even after she re-asserted the privilege, thus arguably further demonstrating to her that the chair did not accept her invocation. Consequently, it could be argued that these actions placed her on adequate notice that her assertion of the privilege was unacceptable and that she was required to answer the questions propounded to her, which is why the Chairman continued with his questioning on March 5. Her refusal to answer was therefore intentional.

This argument is problematic, however, particularly if we read the cases as imposing a strict requirement that the specific question initially propounded be repeated and a demand to answer *it* made after formally rejecting the witness's invocation of privilege *as to that question*. And that is a fair reading of the cases. Although the Court said that no fixed verbal formula is necessary when rejecting a witness's objection, the witness must nevertheless be "fairly apprised" that the Committee is disallowing it. *See Quinn*, 349 U.S. at 170. Even Justice Reed's *Quinn* dissent, which criticized the demand requirement, conceded that the requisite mens rea for contempt cannot be satisfied where the witness is led to believe that – or at least confused about whether – her invocation of the privilege is acceptable. *See id.* at 187 (Reed, J., dissenting). Here, the Committee appeared equivocal at the first hearing. Although Chairman Issa's original rejection on May 22, 2013 was likely satisfactory (and bolstered by Rep. Gowdy's argument), it was not followed by a demand to answer the specific question propounded. He then moved onto other questions. On March 5, 2014, the Committee's conduct was also equivocal, because even though the Committee had approved a resolution stating that she had waived the privilege, and the Chairman referred to that resolution in his opening statement, the Committee never formally overruled her assertion of the privilege upon her repeated invocations of it (though it could easily have done so, by telling her that the resolution of June 28, 2013 still applied to each question she would be asked on March 5, 2014). Nor did the Committee demand answers to those same questions. Ms. Lerner was then excused each time and was never compelled to answer.

The problem, then, is not that the Committee failed to notify Ms. Lerner generally that it rejected her earlier assertion of privilege. Rather, the problem is that the Committee did not specifically overrule *each* invocation on either May 22, 2013 or March 5, 2014 and then demand an answer to *each* question previously asked. This is a problem because the refusal to answer each question constitutes a distinct criminal offense for which the mens rea must be established. Therefore, Ms. Lerner could have been confused about whether her invocation of the privilege as to each question was now acceptable – the waiver resolution and the Chair's reference to it notwithstanding – especially after her attorney had assured her that she did *not* waive the privilege. A fresh ruling disputing her counsel's advice would have clarified the Committee's position, but did not occur. But even if she could not have been so confused, she would likely have a persuasive argument that this process was still not sufficient under *Quinn*, absent a ruling on *each* question propounded *and* a demand that she answer the question initially asked of her prior to her invocation of the privilege.

Of course, none of this is to say that the cases are not problematic. *Quinn* is not clear about whether a general rejection of a witness's previous assertion of the privilege – like the one we have here via resolution and reference in an opening statement – would suffice as a method

for overruling an invocation of privilege on each and every question asked (as opposed to informing the witness after each invocation that the invocation is unacceptable). The best reading of *Quinn* is that although it does not require a talisman, it does require that the witness be clearly apprised as to each question that her objection to it is unacceptable. And that would seem to require a separate rejection and demand upon each invocation. *Quinn* also specifically states that once the Committee reasonably concludes that the witness has invoked the Fifth Amendment privilege, the privilege "must be respected." *Quinn*, 349 U.S. at 163. Yet *Quinn* later states that when a witness asserts the privilege, a contempt prosecution may lie only where the witness refuses the answer once the committee has disallowed the objection and demanded an answer. *Id.* at 166. This would often put the committee in an untenable position. If the committee must respect an assertion of the privilege, then it cannot overrule the invocation of the privilege and demand an answer. For if the committee must decide to overrule the objection and demand an answer, then the committee is not respecting the assertion of the privilege. Perhaps the Court meant something different by "respect;" but its choice of language is confusing.

Also, the cases base the demand requirement on the problem of proving mens rea. Although the statute does not explicitly set forth the "deliberate and intentional" mens rea, the Court has held that the statute requires this. *See Sinclair v. United States*, 279 U.S. 263, 299 (1929). Contrary to *Quinn*, it is possible to read the statute as saying that the offense is complete once the witness refuses to answer a question, especially once it is made clear that the Committee rejects the underlying objection to answering. That reading is made even more plausible if the witness already knows that she may face contempt if she asserts the privilege and refuses to answer. Justice Reed raised this problem, *see Quinn*, 349 U.S. at 187 (Reed, J., dissenting), as did Justice Harlan, who went even farther in his *Emspak* dissent by saying that the rejection-then-demand requirement has no bearing on the witness's state of mind as of the time she initially refuses to answer. *See Emspak*, 349 U.S. at 214 (Harlan, J., dissenting). Here, Chairman Issa asked Ms. Lerner a series of questions that she did not answer, asserting the privilege instead. There remains a plausible argument that this, combined with the Chairman's initial statement that she had waived the privilege and the subsequent resolution of June 28, 2013, is enough to prove that she acted intentionally in refusing, even without a subsequent demand. That argument, however, would require reconsideration of the holding in *Quinn*.

Third, the Rosenberg memo adds that the witness must be informed that failure to respond *will* result in a criminal contempt prosecution. That, however, also places the committee in an untenable position. A committee cannot assure such a prosecution. Pursuant to section 194 and congressional rules, the facts must first be certified by the Speaker of the House and the President of the Senate, the case must be referred to the United States Attorney, and the United States Attorney must bring the case before a grand jury (which could choose not to indict). Even if the committee believes the witness should be prosecuted, that result is not inevitable. Therefore, because the committee alone is not empowered to initiate a contempt prosecution, requiring the committee to inform the witness of the inevitability of a contempt prosecution would be inconsistent with federal law (section 194). Perhaps what Mr. Rosenberg meant was simply that the witness must be told that the committee would refer the case to the full Congress.

Even assuming the soundness of the rejection-and-demand requirement (which we should, as it is the prevailing law), and assuming it was not satisfied here, this does not necessarily preclude some future contempt prosecution against Ms. Lerner under section 192. If

the Committee were to recall Ms. Lerner, question her, overrule her assertion of privilege and demand an answer to the same question(s) at that time, then her failure to answer would apparently satisfy section 192. In the alternative, the Committee could argue that *Quinn, et al.* were wrong to require the formality of an explicit rejection and a subsequent demand for an answer in order to prove mens rea. That question would then have to be subject to litigation.

Finally, although beyond the scope of your precise inquiry, I continue to believe that any discussion of using the contempt of Congress statutes must consider that the procedure set forth in section 194 potentially raises serious constitutional concerns, in light of the separation of powers. *See* J. Richard Broughton, *Politics, Prosecutors, and the Presidency in the Shadows of Watergate*, 16 CHAPMAN L. REV. 161 (2012).

I hope you find these thoughts helpful. I am happy to continue assisting the Committee on this, or any other, matter.

**13. Louis Fisher, Adjunct Scholar at the CATO Institute and Scholar in Residence at the Constitution Project.**

I am responding to your request for thoughts on holding former IRS official Lois Lerner in contempt. They reflect views developed working for the Library of Congress for four decades as Senior Specialist in Separation of Powers at Congressional Research Service and Specialist in Constitutional Law at the Law Library. I am author of a number of books and treatises on constitutional law. For access to my articles, congressional testimony, and books see http://loufisher.org. Email: lfisher11@verizon.net. After retiring from government in August 2014, I joined the Constitution Project as Scholar in Residence and continue to teach courses at the William and Mary Law School.

I will focus primarily on your March 5, 2014 hearing to examine whether (1) Lerner waived her constitutional privilege under the Fifth Amendment self-incrimination clause, (2) there is no expectation that she will cooperate with the committee, and (3) the committee should therefore proceed to hold her in contempt. For reasons set forth below, I conclude that if the House decided to hold her in contempt and the issue litigated, courts would decide that the record indicated a willingness on her part to cooperate with the committee to provide the type of information it was seeking. Granted that she had complicated her Fifth Amendment privilege by making a voluntary statement on May 22, 2013 (that she had done nothing wrong, not broken any laws, not violated any IRS rules or regulations, and had not provided false information to House Oversight or any other committee), the March 5 hearing revealed an opportunity to have her provide facts and evidence to House Oversight to further its investigation.

The March 5 hearing began with Chairman Issa stating that the purpose of meeting that morning was "to gather facts about how and why the IRS improperly scrutinized certain organizations that applied for tax-exempt status." He reviewed the committee's inquiry after May 22, 2013, including 33 transcribed interviews of witnesses from the IRS. He then stated: "If Ms. Lerner continues to refuse to answer questions from our members while she is under a subpoena the committee may proceed to consider whether she should be held in contempt." He asked her, under oath, whether her testimony would be the truth, the whole truth, and nothing but the truth. She replied in the affirmative. He proceeded to ask her nine questions. Each time she answered: "On the advice of my counsel I respectfully exercise my Fifth Amendment right and decline to answer that question." With the initial warning from Chairman Issa, followed by nine responses taking the Fifth, the committee might have been in a position to consider holding her in contempt. However, the final question substantially weakens the committee's ability to do that in a manner that courts will uphold.

Chairman Issa, after asking the eighth question, said the committee's general counsel had sent an e-mail to Lerner's attorney, saying "I understand that Ms. Lerner is willing to testify and she is requesting a week's delay." The committee checked to see if that information was correct and received a one-word response to that question from her attorney: "Yes." Chairman Issa asked Ms. Lerner: "Are you still seeking a one-week delay in order to testify?" She took the Fifth, but might have been inclined to answer in the affirmative but decided to rely on the privilege out of concern that a positive answer could be interpreted as waiving her constitutional right. When she chose to make an opening statement on May 22, 2013, and later took the Fifth, she was openly challenged as having waived the privilege. The hearing on March 5 is unclear on her willingness to testify. For purposes of holding someone in contempt, the record should be clear without any ambiguity or uncertainty.

These are the final words from Chairman Issa: "Ladies and Gentlemen, seeking the truth is the obligation of this Committee. I can see no point in going further. I have no expectation that Ms. Lerner will cooperate with this committee. And therefore we stand adjourned."

If it is the committee's intent to seek the truth, why not fully explore the possibility that she would, supported by her attorney, be willing to testify after a short delay of one week? According to a news story, her attorney, William Taylor, agreed to a deposition that would satisfy "any obligation she has or would have to provide information in connection with this investigation." http://www.usatoday.com/story/news/politics/2014/03/03/lois-lerner-testimony-lawyer-e-mails/5981967.

Why would a delay of one week interfere with the committee's investigation that has thus far taken nine and a half months? Why not, in pursuit of facts and evidence, probe this opportunity to obtain information from her, particularly when Chairman Issa and the committee have explained that she has important information that is probably not available from any other witness? With his last question, Chairman Issa raised the "expectation" that she would cooperate with the committee if given an additional week. Under these conditions, I think the committee has not made the case that she acted in contempt. If litigation resulted, courts are likely to reach the same conclusion.

**14. Steven Duke, a former law clerk to Supreme Court Justice William O. Douglas and a current criminal procedure professor at Yale University Law School.**

March 20, 2014

To: Honorable Elijah E. Cummings, Ranking Minority Member, House Committee on Oversight and Government Reform

From: Steven B. Duke, Professor of Law, Yale Law School

Re: Prerequisites for Contempt of Congress Citations and Prosecutions

At the request of your Deputy Chief Counsel, Donald Sherman, I have reviewed video recordings of proceedings before the Committee regarding the testimony of Ms. Lois Lerner, including her claims of privilege and the remarks of Chairman Issa regarding those claims. I have also reviewed the March 12,2014 report to you by Morton Rosenberg, legislative consultant, and the case law cited therein. I have also done some independent research on the matter. Based on those materials and my own experience as a teacher and scholar of evidence and criminal procedure for five decades, I concur entirely with the conclusions reached in Mr. Rosenberg's report that a proper basis has not been laid for a criminal contempt of Congress prosecution of Ms. Lerner.

I also agree with Mr. Rosenberg's conclusion that whether or not Ms. Lerner waived her Fifth Amendment privilege during the May, 2013 proceedings, any new efforts to subpoena and obtain testimony from Ms. Lerner will be accompanied by a restoration of her Fifth Amendment privilege, since that privilege may be waived or reasserted in separate proceedings without regard to what has previously occurred, that is, the privilege may be waived in one proceedings and lawfully reasserted in subsequent proceedings.

**15. Barbara Babcock, Emerita Professor of Law at Stanford University Law School has taught and written in the fields of civil and criminal procedure. She said:**

"I agree completely with the memo from Morton Rosenberg about the requirements for laying a foundation before a contempt citation can be issued: a minimal and long-standing requirement for due process. In addition, it is preposterous to think she waived her Fifth Amendment right with the short opening statement on her previous appearance."

## 16. Michael Davidson is a Visiting Lecturer at Georgetown University on National Security and the Constitution. He wrote:

"I watched the tape of the March 5, 2014 hearing, by way of the link that you sent me. I also read Mort Rosenberg's memorandum to Ranking Member Cummings.

It seems to me the Committee is still midstream in its interaction with Ms. Lerner. Whatever may have occurred on May 22, 2013 (I have not watched that tape), the Chairman asked a series of questions on March 5, 2014, Ms. Lerner asserted privilege under the Fifth Amendment, but the Chairman did not rule with respect to his March 5 questions and Ms. Lerner's assertion of privilege with respect to them.

As Mr. Rosenberg's memorandum indicates, several Supreme Court decisions should be considered. It would be worthwhile, I believe, to focus on the discussion of 2 U.S.C. 192 in *Quinn v. United States*, 349 U.S. 155, 165-70 (1955). For a witness's refusal to testify to be punishable as a crime under Section 192, there must be a requisite criminal intent. Under the Supreme Court's decision in Quinn, "unless the witness is clearly apprised that the committee demands his answer notwithstanding his objections, there can be no conviction under [section] 192 for refusal to answer that question." 349 U.S. at 166.

From the March 5 tape, it appears that the Chairman did not demand that Ms. Lerner answer, notwithstanding her assertion of privilege, any of the questions asked on March 5, and therefore in the words of Quinn there could be no conviction for refusal to answer "that question," meaning any of the questions asked on March 5.

The Committee could, of course, seek to complete the process begun on March 5. If I were counseling the Committee, which I realize I am not, I'd suggest the value of inviting Ms. Lerner's attorney to submit a memorandum of law on her assertion of privilege. That could include whether on May 22, 2013 she had waived her Fifth Amendment privilege for questions asked then and whether any waiver back then carried over to the questions asked on March 5, 2014. Knowing her attorney's argument, the Committee could then consider the analysis of its own counsel or any independent analysis it might wish to receive. If it then decided to overrule Ms.Lerner's assertion of privilege, she could be recalled, her assertion of privilege on March 5 overruled, and if so she could then be directed to respond."

**17. Robert Weisberg is the Edwin E. Huddleson, Jr. Professor of Law and Director of the Stanford Criminal Justice Center at Stanford University Law School.**

To: Rep. Elijah Cummings, Ranking Member
Committee on Oversight & Government Reform
United States House of Representatives

March 21, 2014

From: Robert Weisberg, Stanford Law School

Contempt Issue In Regard To Witness Lois Lerner

Dear Rep. Cummings:

You have asked my legal opinion as to whether Chairman Issa has laid the proper foundation for a contempt charge against Ms. Lerner. My opinion is that he has not.

I base this opinion on a review of what I believe to be the relevant case law. Let me note, however, that I have undertaken this review on a very tight time schedule and therefore (a) I cannot claim to have exhausted all possible avenues of research, and (b) the following remarks are more conclusory and informal than scholarly would call for.

The core of my opinion is that the sequence of colloquies at the May 22, 2013 hearing and the March 5, 2014 hearing do not establish the criteria required under 2 U.S.C. sec. 192, as interpreted by the Supreme Court in Quinn v. United States, 349 U.S. 155 (1956); Empsak v. United States, 349 U.S. 190 (1956), and Bart v. United States, 349 U.S. 219 (1956). The clear holding of these cases is that a contempt charge may not lie unless the witness has been presented "with a clear-cut-choice between compliance and non-compliance, between answering the question and risking the prosecution for contempt."*Quinn*, at 167. Put in traditional language of criminal law, the actus reus element of under section 192 is an express refusal to answer in the face of a categorical declaration that the refusal is legally unjustified..

I know that your focus is on the March 5, 2014 hearing, but I find it useful to first look at the earlier hearing. In my view, the Chairman essentially conceded that contempt had not occurred on May 22, 2013, because rather than frame the confrontation unequivocally as required by section 192, he excused the witness subject to recall, wanting to confirm with counsel whether the witness had waived the privilege by her remarks on that day. Moreover, as I understand it, the Chair at least considered the possibility offering the witness immunity after May 22. Under Kastigar v. United States, 406 US 441 (1972), use immunity is a means by which the government can simultaneously respect the witness's privilege and force her to testify. It makes little sense for the government to even consider immunity unless it believes it at least possible that the witness still holds the privilege. Thus, in my view, the government may effectively be estopped from alleging that the witness was in contempt at that point.

Nor, in my view, was the required confrontation framed at the March 5, 2014 hearing, Instead of directly confronting Ms. Lerner on her refusal to answer, the Chairman proceeded to ask a series of substantive questions, to each of which she responded with an invocation of her privilege. Ms. Lerner could have inferred that the Chair was starting the question/answer/invocation clock all over again, such that as long as she said nothing at this March 5 hearing that could be construed as a waiver, her privilege claim was intact. In my opinion, the Chairman's approach at this point could be viewed, in effect, as a waiver of the waiver issue, or as above, it would allow her to claim estoppel against the government.

Moreover, while the Chairman did lay out the position that Ms. Lerner had earlier waived the privilege, he did not do so in a way that set the necessary predicate for a contempt charge. In opening remarks, the Chairman alluded to Rep. Gowdy's belief that Ms. Lerner had earlier waived and said that the Committee had voted that she had waived. The former of these points is irrelevant. The latter is relevant, but not sufficient, if she was not directly confronted with a formal legal pronouncement upon demand for an answer. Apparently, the Chairman, the reference to the committee vote occurred after Ms. Lerner's first invocation on March 5, but before he continued on to a series of substantive questions and further invocations. Thus, even if reference to the committee view on waiver might have satisfied part of the *Quinn* requirement, Chairman Issa, yet again, arguably waived the waiver issue.

I recognize that by this view the elements of contempt are formalistic and that it puts a heavy burden of meeting those formalistic requirements on the questioner. But such a burden of formalism is exactly what the Supreme Court has demanded in *Quinn*, *Emspak*, and *Bart*. Indeed, it is precisely the formalism of the test that is decried by Justice Reed's dissent in those cases. See *Quinn*, at 171 ff.

Another, supplementary approach to the contempt issue is to consider what mens rea is required for a section 192 violation. This question requires me to turn to the waiver issue. I have not been asked for, nor am I am not offering, any ultimate opinion on whether Ms. Lerner's voluntary statements at the start of the May 22 hearing constituted a waiver. However, the possible dispute about waiver may be relevant to the contempt issue because it may bear whether Ms. Lerner had the required mental state for contempt, given that she may reasonably or at least honestly believed she had not waived.

The key question is whether the refusal to answer must be "willful." There is some syntactical ambiguity here. Section 192 says that a "default--by which I assume Congress means a failure to appear, must be willful to constitute contempt, and arguably the term "willfully" does not apply to the clause about refusal. But an equally good reading is that because contempt can hardly be a strict liability crime and so there must be some mens rea, Congress meant "willfully: to apply to the refusal as well. In any event, the word "refusal" surely suggests some level of defiance, not mere failure or declination.

So if the statute requires willfulness or its equivalent, federal case law would suggest that a misunderstanding or mistake of law can negate the required mens rea. The doctrine of mistake is very complex because of the varieties of misapprehension of law that call under this rubric. But this much is clear: While mistake about of the existence of substantive meaning of a criminal law with which is one charged normally is irrelevant to one's guilt, things are different under a federal statue requiring willfulness. See Cheek v. United States, 498 US 192 (1991) (allowing honest, even if unreasonable, misunderstanding of law to negate guilt ).[102]

Showing that the predicate for willfulness has not been established involves repeating much of what I have said before, from slightly different angle. That is, one can define the actus reus term "refuse" so as to implicitly incorporate the mens rea concept of willfulness.

One possible factor bearing on willfulness involves the timing of Ms. Lerner's statements at the May 22 hearing. If Ms. Lerner's voluntary exculpatory statements at that hearing preceded any direct questioning by the committee, there is an argument that those statements did not waive the privilege because she was not yet facing any compulsion to answer, and thus the privilege was not in play yet. To retain her privilege a witness need not necessarily invoke it at the very start of a hearing. Thus in cases like Jackins v. United States, 231 F,405 (9th Cir. 1959), the witness was able to answer questions and then later invoke the privilege because it was only after a first set of questions that new questions probed into areas that raised a legitimate concern about criminal exposure. Under those cases, the witness has not waived the privilege because the concern about compelled self-incrimination has not arisen yet. This is, of course, a different situation, because the risk of criminal exposure was already apparent to Ms. Lerner when she made her exculpatory statements. But the situations are somewhat analogous under a general principle that waiver has not occurred until by virtue of both a compulsion to answer and a risk of criminal exposure the witness is facing the proverbial "cruel trilemma" that it is the purpose of the privilege to spare the witness.

Here is one other analogy. When a criminal defendant testifies in his own behalf, the prosecutor may seek to impeach him by reference to the defendant's earlier silence, so long as the

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[102] According to Prof. Sharon Davies:

"Knowledge of illegality" has ... been construed to be an element in a wide variety of [federal] statutory and regulatory criminal provisions. . . . These constructions establish that . . . ignorance or mistake of law has already become an acceptable [defense] in a number of regulatory and nonregulatory settings, particularly in prosecutions brought under statutes requiring proof of "willful" conduct on the part of the accused. Under the reasoning employed in these cases, at least 160 additional federal statutes . . . are at risk of similar treatment." The Jurisprudence of Ignorance: An Evolving Theory of Excusable Ignorance, 48 Duke L. J. 341, 344-47 (1998).

prosecutor is not by penalizing the defendant for exercising his privilege against self-incrimination. The prosecutor may do so where the silence occurred before arrest or before the *Miranda* warning, because until the warning is given, the court will not infer that he was exercising a constitutional right. Jenkins v. Anderson, 447 U.S. 231 (1980); Fletcher v. Weir, 455 US 603 (1982) By inference here, the Fifth Amendment was not yet in legal play in at the May 22 hearing until Ms. Lerner was asked a direct question, en though she was under subpoena.

Second, I can imagine Ms. Lerner being under the impression that because her voluntary statement could not constitute a waiver because they chiefly amounted to a denial of guilt, not any details about the subject matter.[103] Again, I am not crediting such a view as a matter of law. Rather, I am allowing for the possibility t hat Ms. Lerner, perhaps on advice of counsel, had honestly believed this to be to be a correct legal inference. But it would probably require the questioner to confront the witness very specifically and expressly about the waiver and to make unmistakably clear to her that it was the official ruling of the committee that her grounds for belief that she had not waived were wrong. If she then still refused to answer, she might be in contempt. (Of course she could then argue to a trial or appellate court that she had not waived but if she lost on that point she would not then be able to undo her earlier refusal.

Most emphatically, I am *not* opining here that these arguments are valid and can defeat a waiver claim by the government. Rather, they are relevant to the extent that Ms. Lerner may have believed them to be valid arguments, and therefore may not have acted "willfully." If so, at the very least her refusal at the March 5 hearing would not be willful unless the Chairman had categorically clarified for her that she had indeed waived, that she no longer had the privilege, and that if she immediately reasserted her purported privilege, she would be held in contempt. As discussed above, this the Chairman did not do.

One final analogy might be useful here, and that is perjury law. In Bronston v. United States,409 U.S. 352 (1973), the Supreme Court held that even when a witness clearly intended to mislead the questioner, there was no perjury unless the witness's statement was a literally a false factual statement.[104] While its reading of the law imposed a heavy burden on the prosecutor to arrange the phrasing of its questions so as to prevent the witness from finessing perjury as Bronston had done there, the Court made clear that just such a formalistic burden is what the law required to

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[103] The federal false statement statute18 U,.S.C. 1001, had allowed the defense that the false statement was merely an "exculpatory no." That defense was overruled in Brogan v. United States 522 U.S. 398 1998), but perhaps a witness or her lawyer might believe would advise a client that a parallel notion might apply in regard to waiver of her fifth amendment privilege.

[104]The perjury statute like the contempt statute, makes "willfulness" the required mens rea.

make a criminal of a witness.[105] "Ambiguities with respect to whether an answer is perjurious "are to be remedied through the questioner's acuity." *Bronston*, at 362.

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[105] "[I]f the questioner is aware of the unresponsiveness of the answer, with equal force it can be argued that the very unresponsiveness of the answer should alert counsel to press on for the information he desires. It does not matter that the unresponsive answer is stated in the affirmative, thereby implying the negative of the question actually posed; for again, by hypothesis, the examiner's awareness of unresponsiveness should lead him to press another question or reframe his initial question with greater precision. Precise questioning is imperative as a predicate for the offense of perjury." *Bronston*, at 361-62.

## 18. Gregory Gilchrist is an attorney with experience representing individuals in congressional investigations and currently an Associate Professor at the University of Toledo College of Law.

Statement of Gregory M. Gilchrist, an attorney with experience representing individuals in congressional investigations and current Associate Professor at the University of Toledo College of Law:

The rule is clear, as is the reason for the rule, and neither supports a prosecution for contempt. The Supreme Court has consistently held that unless a witness is "confronted with a clear-cut choice between compliance and noncompliance, between answering the question and risking prosecution for contempt," the assertion of the Fifth Amendment privilege is devoid of the criminal intent required for a contempt prosecution. See Quinn v. United States, 349 U.S. 155, 166 (1955).

Criminal contempt is not a tool for punishing those whose legal analysis about asserting the privilege is eventually overruled by a governing body. Privilege law is hard, and reasonable minds can and will differ.

Contempt proceedings are reserved for those instances where a witness – fully and clearly apprised that her claim of privilege has been rejected by the governing body and ordered to answer under threat of contempt – nonetheless refuses to answer. In this case, the committee was clear only that it had not yet determined how to treat the continued assertion of the privilege. Prosecution for contempt under these circumstances would be inconsistent with rule and reason.

## 19. Lisa Kern Griffin, Professor of Law at Duke University School of Law whose scholarship and teaching focuses on constitutional criminal procedure stated:

"The Committee has an interest in pursuing its investigation into a matter of public concern and in getting at the truth. But the witness has rights, and there are well-established mechanisms for obtaining her testimony. If a claim of privilege is valid, then a grant of immunity can compel testimony. If a witness has waived the privilege, or continues to demur despite a grant of immunity, then contempt sanctions can result from the failure to respond. But the Supreme Court has made clear that those sanctions are reserved for defiant witnesses. Liability for contempt of Congress under section 192 requires a refusal to answer that is a 'deliberate' and 'intentional' violation of a congressional order. The record of this Committee hearing does not demonstrate the requisite intent because the witness was not presented with a clear choice between compliance and contempt."

## 20. David Gray is a Professor of Law at the University of Maryland Francis King Carey School of Law with expertise in criminal law, criminal procedure, international criminal law, and jurisprudence. He said:

"After reviewing the relevant portions of the May 22, 2013, and March 5, 2014, hearings, I concur in the views of Messrs. Rosenberg and Brand that a contempt charge filed against Ms. Lerner based on her invocation of her Fifth Amendment privilege and subsequent refusal to answer questions at the March 5, 2014, hearing would in all likelihood be dismissed. Two deficits stand out.

First, at no point during the hearing was Ms. Lerner advised by the Chairman that her invocation of her Fifth Amendment privilege at the March 5, 2014, hearing was improper. The Chairman instead read a lengthy narrative history "for the record," the content of which he believed were "important . . . for Ms. Lerner to know and understand." During that narrative, the Chairman reported a vote taken by his committee on June 28, 2013, expressing the committee's view that Ms. Lerner waived her Fifth Amendment rights at the May 22, 2013, hearing and that her invocation of her Fifth Amendment rights at the May 22, 2012, hearing was therefore improper. During subsequent questioning at the March 5, 2014, hearing, Ms. Lerner declared that her counsel had advised her that she had not waived her Fifth Amendment rights and that she would therefore refuse to answer questions posed at the March 5, 2014, hearing. This exchange produced a wholly ambiguous record. Chairman Issa's narrative history could quite reasonably have been interpreted by Ms. Lerner as precisely that: history. The committee's view that her invocation of Fifth Amendment privilege at the May 22, 2013, hearing was improper may well have been "important . . . for Ms. Lerner to know and understand" as a matter of history, but did not inform her as to the committee's views on her potential invocation of Fifth Amendment privilege at the March 5, 2014, hearing. Ms. Lerner's statement regarding her counsel's opinion that she had not waived her Fifth Amendment rights might have been in direct response to the committee's June 28, 2013, resolution. Alternatively, it may have been a statement regarding the extension of any waiver made in May 2013 to a hearing conducted in March 2014. In either event, in order to lay a proper foundation for a potential contempt charge, Chairman Issa needed to respond directly to Ms. Lerner's March 5, 2013, invocation at the March 5, 2013, hearing.

Second, Ms. Lerner was never directly informed by the Chairman at the March 5, 2014, hearing that her failure to answer direct questions posed at the March 5, 2014, would leave her subject to a contempt charge. During his narrative history, the Chairman did state that "if [Ms. Lerner] continues to refuse to answer questions from Members while under subpoena, the Committee may proceed to consider whether she will be held in contempt." Messrs. Rosenberg and Brand are quite right to point out that, by using the word "may," this statement fails to put Ms. Lerner on notice that her failure to answer questions posed at the March 5, 2014, hearing would leave her subject to a contempt charge. There is another problem, however. In context, the statement seems to be reported as part of the content of the June 28, 2013, resolution and then-contemporaneous discussions of the committee rather than a directed warning to Ms. Lerner as to the risks of her conduct in the March 5, 2014, hearing. In order to lay a proper foundation for a potential contempt charge, Chairman Issa therefore needed to inform Ms. Lerner in unambiguous terms that, pursuant to its June 28, 2013, resolution, the committee would pursue contempt charges against her should she refuse to answer questions posed by the committee on March 5, 2014.

Although it appears that Chairman Issa failed to lay a proper foundation for any contempt charges against Ms. Lerner based on her refusal to answer questions at the March 5, 2014, hearing, I cannot discern any malevolent intent on his part. To the contrary, it appears to me that, based on his exchanges with Ms. Lerner at the May 22, 2013, hearing and his manner and comportment at the March 5, 2014, hearing, that he is genuinely, and laudibly, concerned that he and his committee pay all due deference to Ms. Lerner's constitutional rights. It appears likely to me that his omissions here are the results of an abundance of caution and his choice to largely limit his engagement with Ms. Lerner to reading prepared statements and questions rather than initiating the more extemporaneous dialogue that is the hallmark of examinations conducted in court."

## 21. JoAnne Epps, a former federal prosecutor and Dean of Temple University Beasley School of Law, said:

"A key element of due process in this country is fairness. The 'uninitiated' are not expected to divine the thinking of the 'initiated.' In other words, witnesses can be expected to make decisions based on what they are told, but they are not expected to know – or guess – what might be in the minds of governmental questioners. In the context of criminal contempt for refusal to answer, fairness requires that a witness be made clearly aware that an answer is demanded, that the refusal to answer is not accepted, and further that the refusal to answer can have criminal consequences. It appears that the witness in this case received neither a demand to answer, a rejection of her refusal to do so, nor an explanation of the consequences of her refusal. These omissions render defective any future prosecution."

**22. Stephen Saltzburg, is a former law clerk to Supreme Court Justice Thurgood Marshall, and currently the Wallace and Beverley Woodbury University at the George Washington University School of Law with expertise in criminal law and procedure; trial advocacy; evidence; and congressional matters. He said:**

The Supreme Court has made clear that a witness may not be validly convicted of contempt of Congress unless the witness is directed by a committee to answer a question and the witness refuses. The three major cases are Quinn v. United States, 349 U.S. 155, Emspak v. United States, 349 U.S. 190, and Bart v. United States, 349 U.S. 219, all decided in 1955. They make clear that where a witness before a committee objects to answering a certain question, asserting his privilege against self-incrimination, the committee must overrule his or her objection based upon the Fifth Amendment *and* expressly direct him to answer before a foundation may be laid for a finding of criminal intent.

This is a common sense rule. When a witness invokes his or her privilege against self-incrimination, the witness is entitled to know whether or not the committee is willing to respect the invocation. Unless and until the committee rejects the claim and orders the witness to answer, the witness is entitled to operate on the assumption that the privilege claim entitles the witness not to answer.

There is another question that arises, which is whether the Chairman of a committee is delegated the power to unilaterally overrule a claim of privilege or whether the committee must vote on whether to overrule it. This is a matter as to which I have no knowledge. I note that the memorandum by Morton Rosenberg appears to assume that the Chairman may unilaterally overrule a privilege claim, but I did not see any authority cited for that proposition.

## 23. Kami Chavis Simmons, a former federal prosecutor and Professor of Law at Wake Forest University School of Law with expertise in criminal procedure stated:

I agree with the legal analysis provided by Mr. Rosenberg, as well the comments of other legal experts. The Supreme Court's holding in *Quinn v. U.S.*, is instructive here. In *Quinn,* the Supreme Court held that a conviction for criminal contempt cannot stand where a witness before a Congressional committee refuses to answer questions based on the assertion of his fifth-amendment privilege against self-incrimination "unless the witness is clearly apprised that the committee demands his answer notwithstanding his objections." *Quinn v. U.S.,* 349, U.S. 155, 165 (1955). Case law relying on *Quinn* similarly indicates that there can be no conviction where the witness was "never confronted with a clear-cut choice between compliance and noncompliance, between answering the question and risking prosecution for contempt." *Emspak v. U.S.*, 349 U.S. 190, 202 (1955). Based on the record in this case, the witness was not confronted with a choice between compliance and non-compliance. Thus, the initiation of a contempt proceeding seems inappropriate here.

There are additional concerns related to the initiation of criminal contempt proceedings in the instant case. Here, the witness, who was *compelled* to appear before Congress, made statements declaring only her innocence and otherwise made no incriminating statements. Pursuing a contempt proceeding based on these facts, may set an interesting precedent for witnesses appearing before congressional committees, and could result in the unintended consequence of inhibiting future Congressional investigations.

## 24. Patrice Fulcher is an Associate Professor at Atlanta's John Marshall Law School where she teaches Criminal Law and Criminal Procedure. She said:

"American citizens expect, and the Constitution demands, that U.S. Congressional Committees adhere to procedural constraints when conducting hearings. Yet the proper required measures designed to provide due process of law were not followed during the May 22nd House Oversight Committee Hearing concerning Ms. Lerner. In *Quinn v. United States,* the Supreme Court clearly outlined practical safeguards to be followed to lay the foundation for contempt of Congress proceedings once a witness invokes the Fifth Amendment. 349 U.S. 155 (1955). To establish criminal intent, the committee has to demand the witness answer and upon refusal, expressly overrule her claim of privilege. This procedure assures that an accused is not forced to 'guess whether or not the committee has accepted [her] objection', but is provided with a choice between compliance and prosecution. *Id.* It is undeniable that the record shows that the committee did not expressly overrule Ms. Lerner's claim of privilege, but rather once Ms. Lerner invoked her 5th Amendment right, the Chairman subsequently excused her. The Chairman did not order her to answer or present her with the clear option to respond or suffer contempt charges. Therefore, launching a contempt prosecution against Ms. Lerner appears futile and superfluous due to the Committee's disregard for long standing traditions of procedure."

**25. Andrea Dennis is a tenured Associate Professor of Law at the University of Georgia Law School who teaches Criminal Law, Criminal Procedure, and Evidence, among other courses.**

The University of Georgia

School of Law

**MEMORANDUM**

**TO:** The Honorable Elijah E. Cummings
Ranking Member
House Committee on Oversight & Government Reform

**FROM:** Andrea L. Dennis
Associate Professor of Law
University of Georgia School of Law

**DATE:** March 25, 2014

You asked my opinion whether the public video record of the appearance of Ms. Lois Lerner, former Director of Exempt Organizations of the Tax-Exempt and Government Entities Division of the Internal Revenue Service (IRS), before the House Committee on Oversight & Government Reform, which was investigating alleged improprieties by the IRS concerning the tax exempt status of some organizations, sufficiently demonstrates that Ms. Lerner acted "willfully" to support a criminal contempt of Congress charge, pursuant to 2 U.S.C. Sec. 192.

Based on my understanding of the facts, legal research, and professional experience, I must answer in the negative. Accordingly, I join the conclusions that Messrs. Morton Rosenberg and Stanley M. Brand presented on March 12, 2014, to Congressman Cummings, and which since have been echoed by others.

I will not herein detail the facts giving rise to this matter or offer a fully fleshed out research report. Mr. Rosenberg's statement of relevant facts in his memorandum is accurate, and he has cited the most pertinent caselaw. I am happy, however, to provide you with additional supporting citations if necessary.

In short, my research of criminal Congressional contempt charges and analogous legal issues leads me to interpret the term "willfully" in 2 U.S.C. Sec. 192 to require that Ms. Lerner have voluntarily and intentionally violated a specific and unequivocal order to answer the Committee's questions. Moreover, I believe that Ms. Lerner must have been advised that she faced contempt charges and punishment if she continued to refuse to answer the Committee's questions despite its clear order to do so. Collectively, these elemental requirements ensure that witnesses in Ms. Lerner's position are fairly notified that they must choose between making self-incriminating statements, lying under oath, and facing punishment for failing to comply with an order. Witnesses who refuse to comply with such clear statements of expectations have little room to question the nature of the circumstances with which they are confronted. In this case, the record indicates that Ms. Lerner was not forced to make such a choice and therefore a contempt prosecution would be legally and factually unsupportable.

Review of the public video recordings of Ms. Lerner's appearances at the Committee's hearings on May 22, 2013, and March 5, 2014, reveals that at no time during the Committee's publicized proceedings did the Committee Chair explicitly order Ms. Lerner to respond to questions under penalty of contempt. At most, the Committee Chair equivocally stated that if Ms. Lerner refused to answer the Committee's questions, then the Committee may possibly investigate her for contempt. This statement by itself is filled with such uncertainty that it would be erroneous to conclude that Ms. Lerner was directly ordered to answer questions and advised that she would be subject to penalty if she did not. And when considered in connection with the Chair's earlier mentions of possibly offering her immunity or granting her an extension of time to respond, the statement regarding possible contempt charges becomes even more indefinite. For these reasons, I am hard-pressed to conclude that the legal pre-requisites for acting "willfully" in a Congressional criminal contempt prosecution were factually established in these circumstances.

And although you did not particularly inquire of my opinion as to whether Ms. Lerner waived her Fifth Amendment privilege against compelled testimonial self-incrimination at the Committee's hearings on May 22, 2013, I find it an issue worthy of comment. Notably, I am unconvinced that Ms. Lerner waived her privilege at the proceedings by either reading an opening statement briefly describing her professional background and claiming innocence, or authenticating her earlier answers to questions posed to her by the Inspector General. From the record it does not appear that Ms. Lerner voluntarily revealed incriminating information or offered testimony on the merits of the issue being investigated. To conclude otherwise on the waiver issue would suggest oddly that in order to validly assert the privilege individuals must claim the privilege for even non-incriminating information, as well as upend the accepted notion that the innocent may benefit from the privilege.

Before closing, let me explain a little of my background. I am a tenured Associate Professor of Law. I teach Criminal Law, Criminal Procedure, and Evidence, among other courses. I research in a number of areas including criminal adjudication. Prior to entering academia, I clerked for a federal district court judge, practiced as an associate with the law firm of Covington & Burling in Washington, D.C., and served as an Assistant Federal Public Defender in the District of Maryland. A fuller bio may be found at: http://www.law.uga.edu/profile/andrea-l-dennis.

Thank you for the opportunity to reflect on this very important matter. Please let me know if you would like me to elaborate further on my thoughts or answer additional questions. If need be, I may be reached via email at aldennis@uga.edu or in my office at 706-542-3130.

**26. Katherine Hunt Federle is a Professor of Law at the Ohio State University Michael E. Moritz College of Law where she teaches Criminal Law and serves as Director, for the Center for Interdisciplinary Law & Policy Studies. She said:**

Constitutional rights do not end at the doors of Congress. Any witness who receives a subpoena to testify before Congress may nevertheless expect that constitutional protections extend to those proceedings. When that witness raises objections to the questions posed on the grounds of self-incrimination, due process entitles the witness to a clear ruling from the committee on those objections. Bart v. United States, 269 F.2d 357, 361 (1955). Only after the committee informs the witness that her objections are overruled, and she continues to assert her Fifth Amendment right, would it be possible to charge the witness with criminal contempt of Congress. Quinn v. United States, 349 U.S. 155, 165-166 (1955). However, without a clear statement from the committee overruling her objections, there can be no conviction for contempt of Congress based on her refusal to answer questions. Id.

Due process cannot stand for the proposition that a witness must guess whether her assertion of the privilege of self-incrimination has been accepted. In this case, there does not appear to be any statement by the members of the House Committee on Oversight and Government Reform during the hearings informing Ms. Lerner that her objections have been overruled. It would strain credulity to suggest that a witness must rely on news accounts or second-hand statements to divine the Committee's intentions on this matter. Moreover, insisting that a witness who has asserted her Fifth Amendment right appear before the Committee again would seem to serve only political ends in the absence of some intention either to accept the invocation of the privilege against self-incrimination or to offer the witness immunity in exchange for her testimony. Rather, in light of the suggestion that the Committee intends to seek contempt charges, recalling the witness suggests an opportunity for political theater.

The essence of due process is fairness. At the very least, due process requires a direct communication from the Committee to the witness stating in some way that the witness must answer the questions. Some idea that the Committee has disagreed with her objections is not enough, given the nature of the potential charge. Of course that also means that some questions must be posed. I remain unpersuaded that happened here since the Committee met and voted to overrule her objections after Ms. Lerner first appeared, and I cannot see that any questions were asked of Ms. Lerner that would have indicated to her that her objections were overruled. When Ms. Lerner appeared a second time and invoked the privilege against self-incrimination, the Committee then should have told her it was overruling her objections. Again, that did not happen.

**27. Glenn F. Ivey is a former federal prosecutor and currently a Partner in the law firm of Leftwich & Ludaway, whose practice focuses on white collar criminal defense, as well as Congressional and grand jury investigations. He said:**

"I agree with Morton Rosenberg's statement that Chairman Issa has not laid the requisite legal foundation to bring contempt of Congress charges. Mr. Rosenberg raises important points that the Committee ought to consider, especially given the negative historic impact this decision could have on the institution. Protecting these procedures and precedents from the pressures of the moment is important. Rushing to judgment or trying to score political points is not in the best interest of the Committee, the Congress or the country."

## 28. Jonathan Rapping is an Associate Professor of Law at the John Marshall School of Law where he teaches Criminal Law and Criminal Procedure. He said:

Ours is a nation founded on the understanding that whenever government representatives are given power over the people, there is the potential for an abuse of that power. Our Bill of Rights enshrined protections meant to shield the individual from a government that fails to exercise restraint. At no time is the exercise of prudence and temperament more important than when a citizen's liberty is at stake. The United States Supreme Court begins its analysis in Quinn v. United States, 349 U.S. 155 (1955), with a discussion of the historical importance the Fifth Amendment privilege against self-incrimination holds in our democracy. The Court reminds us that this right serves as "a safeguard against heedless, unfounded or tyrannical prosecutions[,]' and that to treat it "as an historical relic, at most merely to be tolerated - is to ignore its development and purpose." Id. at 162.

In the instant case, zeal to charge into a criminal contempt prosecution appears to trump respect for process necessary to ensure this critical right is respected. The March 5th hearing opens with Representative Issa indicating that the Committee believes Ms. Lerner waived her Fifth Amendment privilege, and *suggesting* that if Ms. Lerner does not answer questions "the Committee may proceed to consider whether she should be held in contempt." Ms. Lerner subsequently makes clear that her lawyer disagrees with that assessment, and that she believes she retains her right to refuse to answer questions. Ms. Lerner proceeds to refuse to answer questions and Representative Issa appears to accept her refusal without ever again raising the specter of contempt. By the end of the hearing, the threat that contempt charges may be forthcoming is at best ambiguous.

But in our democracy, ambiguous is not good enough. The government has the burden, indeed the obligation, to make clear that refusal to answer questions will result in contempt, giving the individual a chance to comply with an unequivocal demand. There must be no ambiguity about whether the citizen is jeopardizing her liberty. The onus is on the government to dot all i's and cross all t's. Unwavering respect for this core constitutional principle demands no less.

## 29. Eve Brensike Primus is a Professor of Law at the University of Michigan Law School with expertise in criminal law, criminal procedure, as well as constitutional law. She said:

In order to be guilty of a criminal offense for refusing to testify or produce papers during a Congressional inquiry under 2 U.S.C. § 192, a subpoenaed witness must *willfully* refuse to answer any question pertinent to the question under inquiry. In a trilogy of cases in 1955, the Supreme Court made it clear that, "unless the witness is clearly apprised that the committee demands [her] answer notwithstanding [her] objections, there can be no conviction under § 192 for refusal to answer that question." *Quinn v. United States*, 349 U.S. 155, 166 (1955); *see also Emspak v. United States*, 349 U.S. 190, 202 (1955); *Bart v. United States*, 349 U.S. 219, 222 (1955). Without such appraisal, "there is lacking the element of deliberateness necessary" to establish the willful mental state required by the statute. *Emspak v. United States*, 349 U.S. 190, 202 (1955).

The Supreme Court further emphasized that "[t]he burden is upon the presiding member to make clear the directions of the committee...." *Quinn v. United States*, 349 U.S. 155, 166 n.34 (1955) (quoting *United States v. Kamp*, 102 F. Supp. 757, 759 (D.D.C.)). The witness must be "confronted with a clear-cut choice between compliance and noncompliance, between answering the question and risking prosecution for contempt." *Quinn v. United States*, 349 U.S. 155, 166 (1955); *see also Bart v. United States*, 349 U.S. 219, 222 (1955) (requiring that the committee give the witness a specific direction to answer before a conviction for contempt can lie).

In neither of the hearings at which Ms. Lerner testified did Chairman Issa expressly overrule her objections and explicitly direct her to answer the committee's questions or face contempt proceedings. Having never been given an order to answer questions, Ms. Lerner could not *willfully* refuse to answer under § 192.

**30. David Jaros is an Assistant Professor of Law at the University of Baltimore School of Law who teaches courses in criminal law and procedure. He said:**

"A critical component of due process is that a defendant must have fair notice that their actions will expose them to criminal liability. To hold Ms. Lerner in contempt, the congressional committee must have done more than just inform Ms. Lerner that it had found that her voluntary statements waived her Fifth Amendment Rights. The Committee must have also clearly demanded that she respond to the questions not withstanding her objections. Failing to do that is fatal to the charge."

**31. Alex Whiting is a former criminal prosecutor at the International Criminal Court (ICC) in The Hague and a Professor at Harvard Law School with expertise in criminal law, criminal trials and appeals as well as prosecutorial ethics. He said:**

Proceeding with contempt against Lois Lerner on the basis of this record would be both unwise and unfair. Because of the risk of politicization in the congressional investigation and oversight process, it is particularly important that due process be scrupulously followed at all times and that the Committee take the maximum steps to ensure that witnesses are afforded all of their legal rights and protections. The record here falls short of meeting this standard. As others have noted, federal prosecutors would rarely if ever seek to deny a witness his or her Fifth Amendment privilege based on the arguments advanced here. Further, with regard to contempt, Congress should provide, as is the practice in courts, clear warnings to the witness that refusal to answer the questions will result in contempt proceedings and then give the witness every opportunity to answer the questions. That practice was not followed in this case. Fairness and a concern for the rights of witnesses who testify before Congress dictate that the Committee take great care in following the proper procedures before considering the drastic step of seeking a finding of contempt. Proceeding with contempt under these circumstances, and on this record, seriously risks eroding the Committee's legitimacy.

**32. On April 6, 2014, Morton Rosenberg sent a memo to the Oversight Committee Democratic staff based on his review of Chairman Issa's March 25, 2014 memo from House Counsel. This memo directly rebuts the arguments raised by House Counsel in defense of Chairman Issa's actions on March 5, 2014.**

April 6, 2014

To: [redacted]
Deputy Chief Counsel, Minority
House Committee on Oversight
& Government Reform

From: Morton Rosenberg
Legislative Consultant

Re: Comments on House General Counsel Opinion

This is in response to your request for my comments on the House General Counsel's (HGC) March 25 opinion critiquing my March 12 memo for Ranking Member Cummings. In that opinion the HGC readily concedes that the Supreme Court in *Quinn, Emspak*, and *Bart* requires that in order for a congressional committee to successfully prosecute a subpoenaed witness's refusal answer pertinent questions after he has invoked his Fifth Amendment rights, it must be shown that the "witness is clearly apprised that the committee demands his answer notwithstanding his objections", *Quinn*, 349 U.S. at 196; a committee must "directly overrule [a witness's] claims of self-incrimination;" *Bart,* 349 at 222; and the witness must be "confronted with a clear-cut choice between compliance and non-compliance, between answering the question and risking prosecution for contempt." *Emspak,* 349 U.S. at 202. HGC Op. at 10-12. The HGC asserts that the Committee followed the High Court's requirements by "directly" overruling Ms. Lerner's privilege claim by its passage of a resolution specifically determining that she had voluntarily waived her constitutional rights in her opening exculpatory statement at the May 22, 2013 hearing and subsequent authentication of a document, and by communicating that committee action to her; and, "indirectly", by "demonstrating" that it had "specifically directed the witness to answer." *Id.,* 10-11, 12-15.

Both assertions are meritless. The June 28, 2013 resolution stands alone as a committee opinion (which was resisted and challenged by the witness's counsel) and is without any immediate legal consequence until the question of its legal substantiality is considered and resolved as a threshold issue by a court in criminal contempt prosecution under 2 U.S.C. 192 or civil enforcement proceeding to require the withheld testimony. By itself, the resolution, and the communication of its existence, is not a demand for an answer to a propounded question recognized by the Supreme Court trilogy. In fact, a perusal of the record of events relied on by the HGC indicates that there never has been at any time during 10 month pendency of the subject hearing a specific committee overruling of any of Ms. Lerner's numerous invocations of constitutional privilege at the time they were made or thereafter, nor any effective direction to her to respond. As a consequence, she "was left to speculate about the risk of possible prosecution for contempt; [s]he was not given a clear choice between standing on [her] objection and compliance with a committee ruling." *Bart,* 349 U.S. at 223.

More, particularly, after making her controverted opening statement and authentication of a previous document submission to an IG, Chairman Issa advised Ms. Lerner that she had effectively waived her constitutional rights and asked her to obtain her counsel's advice. She then announced her refusal to respond to any further questions, thereby invoking her privilege, to which the Chairman responded that "we will take your refusal as a refusal to testify." It may be noted that Lerner's counsel had advised the committee before the hearing that she was likely to claim privilege. The hearing proceeded without further testimony from the witness. Before adjournment, Chairman Issa announced that the question had arisen whether Ms. Lerner had waived her rights and that he would consider that issue and "look into the possibility of recalling her and insisting that she answer questions in light of a waiver." The committee thereafter sought and received input on the waiver issue, including the written views of Lerner's counsel. On June 28, 2013, after debate amongst the members, a resolution, presumably prepared and vetted by House Counsel and/or committee counsel, was passed by a 22-17 vote. The text of the committee resolution reads as follows:

> Resolved, That the Committee on Oversight and Government Reform determines that voluntary statement offered by Ms. Lerner constituted a waiver of her Fifth Amendment privilege against self-incrimination as to all questions within the subject matter of the Committee hearing that began on May 22, 2013, including questions relating to (i) Ms. Lerner's knowledge of any targeting by the Internal Revenue Service of particular groups seeking tax exempt status, and (ii) questions relating to any facts or information that would support or refute her assertions that, in that regard, "she has not done anything wrong," "not broken any laws," "not violated IRS rules or regulations," and/or "not provided false information to this or any other congressional committee."

Nothing in the language of the Committee's June 28, 2013 resolution can be even be remotely construed as an *explicit* rejection of Ms. Lerner's Fifth Amendment privilege at the May 22 hearing. It is solely and exclusively concerned with the question whether Ms. Lerner voluntarily waived her privilege at that hearing. A rejection of a future claim in a resumed hearing may be implicit in the resolution's language, but that rejection, under *Quinn, Emspak,* and *Bart,* would have had to have been expressly directed at the particular claim when raised by the witness.

After a lapse of eight months, the Chairman decided to resume his questioning of Ms. Lerner and reminded her attorney, by letter dated February 25, 2014, that he had recessed the earlier hearing "to allow the committee to determine whether she had waived her asserted Fifth Amendment right [and that] [t]he Committee subsequently determined that Ms. Lerner in fact had waived that right." The Chairman then, for the first time, asserted *"[B]ecause the Committee explicitly rejected {Ms. Lerner's] Fifth amendment privilege claim , I expect her to provide answers when the hearing reconvenes on March 5."* Lerner's counsel simply responded the next day that the "[w]e understand that the Committee voted that she had waived her rights," but with no acknowledgement that any express rejection of a

privilege claim had taken place. HGC Op. at 7-8. When the hearing resumed on March 5, the Chairman opened by detailing past events. He again erroneously described what had occurred at the June 28, 2012 committee business meeting: "...[T]he committee approved a resolution rejecting Ms. Lerner's claim of Fifth Amendment privilege based on her waiver...." He then inconsistently followed up by stating "After that vote, having made the determination that Ms. Lerner waived her Fifth Amendment rights, the Committee recalled her to appear today to answer questions pursuant to rules. The committee voted and found that Ms. Lerner waived her Fifth Amendment rights by making" a voluntary exculpatory statement and a document authentication. The Chairman concluded that if the witness continued to refuse to answer questions, "the committee may proceed to consider whether she should be held in contempt." HGC Op. at 9. After being recalled and sworn in, Ms. Lerner was asked a question to which she responded that she had not waived her Fifth Amendment right and then asserted her privilege in refusing to answer that question. She continued to invoke privilege with respect to every subsequent question until the Chairman abruptly adjourned the hearing. As was detailed in my March 12 statement, the Chairman never expressly rejected her privilege claims at that hearing, individually or collectively, and thus she was never confronted with the risk of not replying.

Whether a witness has waived her Fifth Amendment protections is a preliminary, threshold issue that must be resolved by a reviewing court prior to grappling with the efficacy of a charge of criminal contempt for refusal to answer. The Supreme Court has long recognized that "Although the privilege against self-incrimination must be claimed, when claimed it is guaranteed by the Constitution....Waiver of constitutional rights... is not lightly to be inferred. A witness cannot properly be held after claim to have waived his privilege...upon vague and uncertain evidence." *Smith v. United States,* 337 U.S. 137, 150 (1949). Here, again, the Court's 1955 trilogy is instructive. In *Emspak* the Court was confronted with a Government claim that the petitioner had waived his rights with respect to one count of his indictment. The Court rejected the claim, emphasizing the context of the situation and its sense of the need to protect the integrity of the constitutional protection at stake. The witness was being questioned about his associations and expressed apprehension that the committee was "trying to perhaps frame people for possible criminal prosecution" and that "I think I have the right to reserve whatever rights I have." He was then asked, " Is it your feeling that to reveal your knowledge of them would subject you to criminal prosecution?" Emspak relied, "No. I don't think this committee has a right to pry into my associations. That is my own position."

Analogizing the situation to the one encountered in the *Smith* case, the Court held that "[I]n the instant case, we do not think that petitioner's 'No' answer can be treated as as a waiver of his previous express claim under the Fifth Amendment. At most, as in the *Smith* case, petitioner's 'No' is equivocal. It may have merely represented a justifiable refusal to discuss the reasons underlying petitioner's assertion of the privilege; the privilege would be of little avail if a witness invoking it were required to disclose the precise hazard which he fears. And even if petitioner's answer were taken as responsive to the question, the answer would still be consistent with a claim of privilege. The protection of the Self-Incrimination

Clause is not limited admissions that 'would subject [a witness] to criminal prosecution'; for this Court has repeatedly held that 'Whether such admissions by themselves would support a conviction under a criminal statute is immaterial' and that the privilege extends to to admissions that may only tend to incriminate. In any event, we cannot say that the colloquy between the committee and the petitioner was sufficiently unambiguous to warrant waiver here. To conclude otherwise would be to violate this Court's own oft-repeated admonition that the courts must 'indulge every reasonable presumption against waiver of fundamental rights.'" *Emspak*, 349 U.S. at 196. Then the Court turned to the question whether the committee appropriately rejected petitioner's privilege claims.

These passages from *Emspak* are presented not to argue about the validity of the Committee's waiver resolution but to demonstrate that its conclusion is preliminary, not yet legally binding, and subject to judicial review and does not constitute the express rejection of the privilege required by the Supreme Court. However, as was indicated in my March 12 memo, extant case law, in addition to *Emspak,* makes a finding of waiver problematic; and past congressional practice accepting similar voluntary exculpatory statements further undermines the efficacy of the Committee's June 28, 2013 resolution. See, Michael Stern, www.pointoforder.com/2013/05/23/lois-lerner-and-waiver-of-fifth-amendment-privilege.

The consequence of the HGC's failure to "directly" establish "that the entity–here, the Oversight Committee—specifically overruled the witness' objection," HGC Op. at 10, is that it totally undermines the second prong of its argument: that "indirectly" it has "demonstrate[ed] that the congressional entity specifically directed the witness to answer." Id. at 11. The HGC references three such purported directions. First, the Chairman's statement in his February 25, 2014 letter to Ms. Lerner's counsel that "because the Committee explicitly rejected [Ms. Lerner's] Fifth Amendment privilege claim, I expect her to provide answers when the hearing reconvenes on March 5." As has been demonstrated above, the Committee resolution in fact did not expressly reject an invocation of privilege; Lerner's counsel's immediate reply to that statement was to convey his understanding that the resolution dealt only with the question of waiver; and Ms. Lerner's immediate response to the Chairman's initial question to her at the March 5 hearing was to assert her belief that she had had not waived her privilege rights and then to invoke her privilege. Second, the HGC quotes remarks by three members at the June 28, 2013 Committee meeting that issued the waiver determination that speculate that Ms. Lerner might be held in contempt. And, third, the Chairman's verbal observation at the end of his opening remarks at the March 5 hearing that if she continued to refuse to answer questions, "the [C]ommittee *may* proceed to consider whether she should be held in contempt." Thus the "indirect' support relies predominantly on the incorrect factual and legal premise that the Committee had communicated a rejection of her privilege claims in its waiver resolution and ambiguous statements by members and the Chairman about the risk of contempt. But, again, when the March 5 questioning took place, the Chairman never expressly overruled her objections or demanded a response.

The HGC's unsuccessful effort to demonstrate that the Committee has both "directly" overruled Ms. Lerner's claims of constitutional privilege and "indirectly...specifically directed the witness to answer," also belies, contradicts and undermines his argument that the Supreme Court's trilogy did not require the Committee to both reject Ms. Lerner's assertions of privilege and to direct her to answer. The rationale of the Court's establishment these foundational requirements for a contempt prosecution was to assure that a "witness is confronted with a clear-cut choice between compliance and noncompliance, between answering the question and risking prosecution for contempt." That would seem to clearly encompass both a rejection of a claim and a demand for an answer, with the latter containing some notion or sense of a prosecutorial risk. In most instances thatI can think of, one without the other is simply insufficient to meet the bottom line of the Court's rationale. The great pains the HGC has unsuccessfully taken here to show that the Committee complied with both requirements raises serious doubts as to his reading of the Court's requirements.

The HGC opinion unfairly diminishes the historical and legal significance of the 1955 trilogy as well as the lessons of contempt practice since those rulings. The Court in those cases (and others subsequent to them) was attempting to send a strong message to Congress generally, and the House Un-American Activities Committee and its chairman in particular, that it would no longer countenance the McCarthyistic tactics evidenced in those proceedings. The Court in *Quinn* wrote a paean in support of the continued vitality of the privilege demanding a liberal application: "Such liberal construction is particularly warranted in a prosecution of a witness for refusal to answer, since the respect normally accorded the privilege is then buttressed by the presumption of innocence accorded a defendant in a criminal trial. To apply the privilege narrowly or begrudgingly to treat it as as an historical relic, at most merely to be tolerated--is to ignore its development and purpose." The *Quinn* Court did observe that no specific verbal formula was required to protect its investigative prerogatives, but it did underline that the firm rules iterated and reiterated in all three cases—clear rejections of a witness's constitutional objections, demands for answers, and notice that refusals would risk criminal prosecution—belie any intent to allow palpable ambiguity. Together with later Court rulings condemning the absence or public unavailability of committee procedural rules, or the failure to abide by standing rules, and the uncertainty of the subject matter jurisdiction and authority of investigating committees, we today have an oversight and investigatory process that is broad and powerful but restrained by clear due process requirements.

My own Zelig-like experience with contempt proceedings was that committees that have faithfully adhered to the script propounded by the Court's trilogy have found it extraordinarily useful in achieving sought after information disclosures. Normally, the criminal contempt process is principally designed to punish noncompliance, not to force disclosure of withheld documents or testimony. That has been the role of inherent contempt or civil enforcement proceedings. But in the dozens of criminal contempt citations voted against cabinet-level officials and private parties by subcommittees, full committees or by a House since 1975 there has been an almost universal success in obtaining full or significant cooperation before actual criminal proceedings were commenced. See generally, [redacted]

[redacted], *Congress's Contempt Power and the Enforcement of Congressional Subpoenas: Law, History, Practice, and Procedure,* CRS Report RL34097 (August 12, 2012. Two such inquiries nvolving private parties are useful examples for present purposes. In 1998 the Oversight subcommittee of the House Commerce Committee began investigating allegations of undue political influence by an office developer, Franklin Haney, in having the General Services Administration locate the Federal Communications Commission in one of his new buildings. Subpoenas were issued to the developer and his attorneys. Attorney-client privilege was asserted by the developer and the law firm. A contempt hearing was called at which the developer and the representative of the firm were again asked to comply and refused, claiming privilege. The chair rejected the claims and advised the witnesses that continued noncompliance would result in a committee vote of contempt. The witnesses continued their refusals and the committee voted them in contempt. At the conclusion of the vote, the representative of the law firm rose and offered immediate committee access to the documents if the contempt vote against the firm was rescinded. The committee agreed to rescind the citation. Six months later the District of Columbia Bar Association Ethics Committee ruled that the firm had not violated its obligation of client confidentiality in the face of a subcommittee contempt vote that put them legal jeopardy. See, *Contempt of Congress Against Franklin I. Haney,* H. Rept. 105-792, 105th Cong., 2d Sess. (1998).

A second illustrative inquiry involved the Asian and Pacific Affairs subcommittee of House Foreign Affairs' investigation looking into real estate investment work by two brothers, Ralph and Joseph Bernstein, a real property investor and lawyer respectively, on behalf of President Ferdinand Marcos of the Philippines and his wife Imelda. The subcommittee was pursuing allegations of vast holdings in the United States by the Marcoses (some $10 billion) that emanated in large part from U.S. government development funding. The Bernsteins refused to answer any questions about their investment work or even whether they knew the Marcoses, claiming attorney-client privilege. The subcommittee following appropriate demands and rejections of the asserted privilege, voted to report a contempt resolution to the full committee, which in turn presented a report and resolution to the House that was adopted in February 1986. Shortly thereafter, and before an indictment was presented to a grand jury, the Bernsteins agreed to supply the subcommittee with information it required. See, H. Rept. 99-462 (1986) and 132 Cong. Rec. 3028—62 (1986).

I continue to believe a criminal contempt proceeding under the present circumstances would be found faulty by a reviewing court.

Rep. Elijah E. Cummings

Rep. Eleanor Holmes Norton

Rep. Wm. Lacy Clay

Rep. Jim Cooper

Rep. Jackie Speier

Rep. L. Tammy Duckworth

Rep. Danny K. Davis

Rep. Tony Cardenas

Rep. Michelle Lujan Grisham

Rep. Carolyn B. Maloney

Rep. John F. Tierney

Rep. Stephen F. Lynch

Rep. Gerald E. Connolly

Rep. Matthew Cartwright

Rep. Robin Kelly

Rep. Peter Welch

Rep. Steven Horsford

Mr. ISSA. Mr. Speaker, by direction of the Committee on Oversight and Government Reform, I call up the resolution (H. Res. 574) recommending that the House of Representatives find Lois G. Lerner, Former Director, Exempt Organizations, Internal Revenue Service, in contempt of Congress for refusal to comply with a subpoena duly issued by the Committee on Oversight and Government Reform.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 568, the resolution is considered read.

The text of the resolution is as follows:

HOUSE RESOLUTION 574

*Resolved*, That because Lois G. Lerner, former Director, Exempt Organizations, Internal Revenue Service, offered a voluntary statement in testimony before the Committee, was found by the Committee to have waived her Fifth Amendment Privilege, was informed of the Committee's decision of waiver, and continued to refuse to testify before the Committee, Ms. Lerner shall be found to be in contempt of Congress for failure to comply with a congressional subpoena.

*Resolved*, That pursuant to 2 U.S.C. Sec. 192 and 194, the Speaker of the House of Representatives shall certify the report of the Committee on Oversight and Government Reform, detailing the refusal of Ms. Lerner to testify before the Committee on Oversight and Government Reform as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Ms. Lerner be proceeded against in the manner and form provided by law.

*Resolved*, That the Speaker of the House shall otherwise take all appropriate action to enforce the subpoena.

The SPEAKER pro tempore. The resolution shall be debatable for 50 minutes, equally divided and controlled by the chair and ranking minority member of the Committee on Oversight and Government Reform or their designees.

After debate on the resolution, it shall be in order to consider a motion to refer if offered by the gentleman from Maryland (Mr. CUMMINGS), or his designee, which shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent.

The gentleman from California (Mr. ISSA) and the gentleman from Maryland (Mr. CUMMINGS) each will control 25 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. ISSA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material into the RECORD for the resolution made in order under the rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ISSA. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, on May 22, 2013, the committee started a hearing to investigate allegations that the IRS had, in fact, used a flawed process in reviewing applications for tax-exempt status.

To wit, I subpoenaed Lois Lerner to testify at that hearing because she was head of IRS' Exempt Organization's Division, the office that executed and, we believe, targeted conservative groups. The two divisions of the IRS most involved with the targeting were the EO Determinations unit in Cincinnati and the EO Technical unit in Washington, D.C., headed by Lois Lerner.

Before the hearing, Ms. Lerner's lawyer notified the committee that she would invoke her Fifth Amendment privilege and decline to answer any questions from our committee members. Instead of doing so, Ms. Lerner read a voluntary statement—self-selected statement that included a series of specifics declarations of her innocence.

She said:

I have not done anything wrong. I have not broken any laws. I have not violated any IRS rules or regulations, and I have not provided false information to this or any other committee.

She then refused to answer our questions. She invoked her Fifth Amendment right. She wouldn't even answer questions about declarations she made during her opening statement.

Mr. Speaker, that is not how the Fifth Amendment is meant to be used. The Fifth Amendment is protection. It is a shield. Lois Lerner used it as a sword to cut and then defend herself from any response.

A witness cannot come before the committee to make a voluntary statement—self-serving statement and then refuse to answer questions. You don't get to use the public hearing to tell the press and the public your side of the story and then invoke the Fifth.

Additionally, Mr. Speaker, after invoking the Fifth, when asked about previous testimony she had made and documents, she answered and authenticated those and then, again, went back to asserting her Fifth Amendment rights.

It is disappointing that things have come to this point. Lois Lerner had almost a year to reconsider her decision not to answer questions to Congress.

POINT OF ORDER

Mr. LYNCH. Mr. Speaker, point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LYNCH. The gentleman was recognized for 2 minutes. It is way past 2 minutes. I was just wondering if we were keeping track of time.

The SPEAKER pro tempore. Would the gentleman from California like to yield himself additional time?

Mr. ISSA. I would be happy to anytime the Chair tells me my time has expired.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ISSA. Mr. Speaker, I yield myself an additional 30 seconds.

In the meantime, after invoking, she gave a no-strings-attached interview to the Justice Department. This was said to the press entirely voluntarily before a large gathering. Her position with respect to complying with a duly issued subpoena has become clear. She won't. Her testimony is a missing piece of an investigation into IRS targeting.

We have now conducted 40 transcribed interviews and reviewed hundreds of thousands of documents.

Mr. Speaker, the facts lead to Lois Lerner.

I reserve the balance of my time.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

Just shy of 1 year ago, the Treasury Inspector General for Tax Administration reported the IRS had used inappropriate criteria to review applicants for tax-exempt status.

The very same day, Chairman ISSA went on national TV, before he received a single document or interviewed a single witness, and said the following: ''This was the targeting of the President's political enemies effectively, and lies about it during the election year.''

Republicans have spent the past year trying to prove these allegations. The IRS has spent more than $14 million responding to Congress and has produced more than a half a million pages of documents. We have interviewed 39 witnesses, 40 witnesses, IRS witnesses, Treasury Department employees; and after all of that, we have not found any evidence of White House involvement or political motivation.

Yesterday, I issued a report with key portions from the nearly 40 interviews conducted by the committee to date; and these were witnesses, Mr. Speaker, called by the majority. These interviews showed, definitively, that there was no evidence of any White House direction or political bias; instead they describe in detail how the inappropriate terms were first developed and how there was inadequate guidance on how to process the application.

Now, let me be clear that I am not defending Ms. Lerner. I wanted to hear what she had to say. I have questions about why she was unaware of the inappropriate criteria for more than a year after they were created. I want to know why she did not mention the inappropriate criteria in her letters to Congress, but I could not vote to violate an individual's Fifth Amendment rights, just because I want to hear what she has to say.

A much greater principle is at stake here today, the sanctity of the Fifth Amendment rights for all citizens of the United States of America; and I will not walk a path that has been tread by Senator McCarthy and the House Un-American Activities Committee.

In this case, a vote for contempt not only would endanger the rights of American citizens, but it would be a pointless and costly exercise.

When Senator McCarthy pursued a similar case, the judge dismissed it. The Supreme Court has said that a witness does not waive her rights by professing her innocence.

In addition, more than 30 independent experts have now come forward to conclude that Chairman ISSA botched the contempt procedure by not giving Ms. Lerner the proper warnings at the March 5 hearing, when he rushed to cut off my microphone and adjourn the hearing before any Democrat had the chance to utter a syllable.

For instance, Stan Brand, who served as the House Counsel from 1976 to 1983, concluded that Chairman ISSA's actions were ''fatal to any subsequent prosecution.''

The experts who came forward are from all across the country and all across the political spectrum. J. Richard Broughton, a member of the Republican National Lawyers Association and a law professor, concluded that Ms. Lerner ''would likely have a defense to any ensuing criminal prosecution for contempt pursuant to the existing Supreme Court precedent.''

I didn't say that. The Republican National Lawyers Association member said that.

Rather than squandering our valuable resources, pursuing a contempt vote that more than 30 independent experts have concluded will fail in court, we should release the nearly 40 transcripts, in their entirety, that have not yet been made public and allow all Americans to read the unvarnished facts for themselves.

Mr. Speaker, I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. JORDAN).

Mr. JORDAN. Mr. Speaker, I thank the chairman for yielding.

Look, here is what we know: Lois Lerner was at the center of this scandal right from the get-go.

We know that she waived her Fifth Amendment rights on two separate occasions. She came in front of the committee, as the chairman pointed out, and made multiple factual statements. When you do that, when you make all kinds of assertions, you then don't get a chance to say: oh, now, I invoke my Fifth Amendment privileges.

She waived it a second time when she agreed to be interviewed by the Department of Justice. Think about that. She is willing to sit down with the people who can put her in jail, but she is not willing to answer our questions.

When you waive it in one proceeding, you can't exercise it somewhere else, according to the case law here in the District of Columbia.

Here is what we also know: John Koskinen, the new IRS Commissioner, says it may take as many as 2 years for him to get us all Lois Lerner's emails.

Most importantly, we know Lois Lerner and the Internal Revenue Service systematically targeted American citizens, systematically targeted groups for exercising their First Amendment rights.

Think about that for a second, Mr. Chairman. Think about your First Amendment rights, freedom of the press, freedom of religion, freedom of association, freedom of assembly, freedom of speech—and speech, in particular—that is political. To speak out against your government, your most fundamental right, that is what they targeted.

So to get to the truth, we need to use every tool we can to compel Ms. Lerner, the lady at the center of the scandal, to come forward and answer our questions so the American people can understand why their First Amendment rights were targeted because we know—we know the criminal investigation at the Department of Justice is a sham. They have already leaked to The Wall Street Journal. No one is going to be prosecuted.

They already had the head of the Executive Branch, the President of the United States, go on national television and say no corruption, not even a smidgeon; and the person leading the investigation is a maxed-out contributor to the President's campaign.

We know that is not going to work

□ 1630

The only route to the truth is through the House of Representatives and compelling Ms. Lerner to answer our questions. That is why this resolution is so important. That is why I am supporting it. That is why I hope my colleagues on the other side will support it as well. It is about this most fundamental right, and Ms. Lerner is at the center of the storm. We want her simply—simply—to answer the questions.

Mr. CUMMINGS. Mr. Speaker, I would say to the gentleman, as Professor Green of Fordham University has said, it is explicit that a person does not waive a Fifth Amendment right by answering questions outside of a formal setting or by making statements that were not under oath, when he referred to the issue of her making statements to the Justice Department.

With that, I yield 2 minutes to the distinguished gentlelady from California (Ms. SPEIER), a member of our committee.

Ms. SPEIER. I thank the ranking member for his leadership and for the opportunity to say a few words here on the floor.

Mr. Speaker, I am not here to defend Lois Lerner today, but I am here to defend the Constitution and every American's right to assert the Fifth Amendment so as not to incriminate themselves, and every single Member of this body should be as committed to doing the same thing. I am also here to defend the integrity of the committee and the rules of that committee.

Lois Lerner pled the Fifth Amendment before our committee, and she has professed her innocence, pure and simple. Thirty independent legal experts have said that the proceedings were constitutionally deficient to bring a contempt proceeding. They were constitutionally deficient because the chair did not overrule Ms. Lerner's Fifth Amendment assertion and order her to answer the questions. And as long as that deficiency is there, there is no reason to move forward with that effort today.

But let's move on to the bigger picture: Every single 501(c)(4) that was in the queue before the IRS could have self-certified; they didn't even need to be in that queue. So whether or not there was a list of progressive organizations and conservative organizations that they were using to somehow get to the thousands of applications that they had, they could have moved aside and self-certified.

There have been 39 witnesses before this committee. There have been 530 pages of documents. There is no smoking gun. But the other side is locked and loaded. They are just shooting blanks.

Mr. ISSA. Mr. Speaker, if they hadn't made their applications, perhaps they wouldn't have been asked the inappropriate, abusive questions like, What books do you read? Who are your donors? as has happened.

With that, I yield 1 minute to the distinguished gentleman from Virginia (Mr. CANTOR), the leader of the House.

Mr. CANTOR. I thank the gentleman from California, Chairman ISSA, for yielding.

Mr. Speaker, I rise today in strong support of this resolution to hold Ms. Lois Lerner in contempt. The substance of this resolution should not be taken lightly. The contempt of the U.S. House of Representatives is a serious matter and one that must be taken only when duly warranted. There is no doubt in my mind the conditions have been met for today's action.

Mr. Speaker, there are few government abuses more serious than using the IRS to punish American citizens for their political beliefs. The very idea of the IRS being used to intimidate and silence critics of a certain political philosophy is egregious. It is so egregious that it has practically been a cliche of government corruption in works of fiction for decades, ever since President Nixon's administration.

Yet, Mr. Speaker, unfortunately, in this instance, under Ms. Lerner's watch, this corruption became all too real. Conservatives were routinely targeted and silenced by the IRS leading up to the 2012 election, unjustly and with malice. Those targeted were deprived of their civil right to an unbiased administration of the law. These citizens, these moms and dads simply trying to play within the rules and make their voices heard, were left waiting without answers until Election Day had come and gone.

Liberal groups were not targeted, as my colleagues across the aisle like to claim. Only conservative groups were deliberately singled out because of their political beliefs, and they were subjected to delays, inappropriate questions, and unjust denials.

Mr. Speaker, the American people are owed a government that they can

trust, not a government that they fear. The only way to rebuild this trust is to investigate exactly how these abuses occurred and to ensure that they never happen again. Whether you are a conservative or a liberal, a Republican or a Democrat or hold any other political or philosophical position, your rights must be protected from this administration and all those that come after it.

For nearly a full year, Lois Lerner has refused to testify before this House about the singling out and targeting of conservative organizations. She spoke up and gave a detailed assertion of her innocence and then refused to answer questions. She later spoke with DOJ attorneys for hours but still refused to answer a lawful subpoena and testify to the American public. As a public servant, she decided to forgo cooperation, to forgo truth and transparency.

In 2013, Ms. Lerner joked in one uncovered email that perhaps she could get a job with Organizing for America, President Obama's political arm. This is no surprise. Our committees have found that Ms. Lerner used her position to unfairly deny conservative groups equal protection under the law. Ms. Lerner impeded official investigations. She risked exposing, and actually may have exposed, confidential taxpayer information in the process. Day after day, action after action, Ms. Lerner exposed herself as a servant to her political philosophy, rather than a servant to the American people.

This, Mr. Speaker, is why the House has taken the extraordinary action of referring Ms. Lerner to the Department of Justice for criminal prosecution and is why we will request a special counsel to investigate this case.

Not only has the President asserted that there is ''not even a smidgeon of corruption'' at the IRS, but leaks from the Department of Justice have indicated that no one will be prosecuted. That is not surprising, as a top donor to the President's campaign is playing a key role in their investigation, potentially compromising any semblance of independence and justice. An independent, nonpartisan special prosecutor is needed to ensure a fair investigation that all Americans can trust.

Mr. Speaker, the American people deserve to know the full context of why these actions were taken. As early as 2010, leading Democratic leaders were urging the IRS to take action against conservative groups. How and why was the decision made to take action against them?

The American people, Ms. Lerner's employers, deserve answers. They deserve accountability. They deserve to know that this will never happen again, no matter what your political persuasion. The American people deserve better.

Because of Ms. Lerner's actions, because of her unwillingness to fully testify, and because she has refused to legally cooperate with this investigation, I urge my colleagues in the House to hold Ms. Lerner in contempt.

Mr. CUMMINGS. I yield 3 minutes to the distinguished gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. I thank the gentleman from Maryland for yielding.

Mr. Speaker, in response to those recent allegations, I do want to point out that our committee did look at the question of political motivation in selecting tax exemption applications. We asked the inspector general, Russell George, on May 17, 2013, in a hearing before the Ways and Means Committee: ''Did you find any evidence of political motivation in the selection of tax-exempt applications?'' The inspector general who investigated this case testified in response: ''We did not, sir.''

Mr. Speaker, I rise in strong opposition to this contempt resolution. What began as a necessary and compelling bipartisan investigation into the targeting of American citizens by the Internal Revenue Service has now deteriorated into the very sort of dangerous and careless government overreaching that our committee was set out to investigate in the first place.

The gentleman from California commenced this investigation in May of 2013 by stating the following during his opening statement: ''When government power is used to target Americans for exercising their constitutional rights, there is nothing we, as Representatives, should find more important than to take it seriously, get to the bottom of it, and eradicate the behavior.''

I would remind the chairman that our solemn duty as lawmakers, to safeguard the constitutional rights of every American, does not only extend to cases where a powerful Federal department has deprived citizens of freedoms vested in the First Amendment, rather we must be equally vigilant when the power of government is brought down on Americans who have asserted their rights under the Fifth Amendment. And it is guaranteed that no person shall be compelled to be a witness against him- or herself nor be deprived life, liberty, and property without due process of law. In our system where ''innocent until proven guilty'' lies at the bedrock of our constitutional protections, Ms. Lerner's brief assertions of innocence, her 36 words, should not be enough to vitiate her Fifth Amendment constitutional rights.

Regrettably, this contempt resolution utterly fails to reflect the seriousness with which we should approach the constitutional issue at stake here. In the face of Supreme Court precedent and a vast body of legal expert opinion holding that Ms. Lerner did not, in fact, waive her Fifth Amendment privilege by professing her innocence, Chairman ISSA has moved forward with contempt proceedings without even affording the members of our own committee the opportunity to receive public testimony from legal experts on this important constitutional question.

As held by the Supreme Court in 1949 in Smith v. United States:

> Testimonial waiver is not to be lightly inferred . . . and the courts accordingly indulge every reasonable presumption against finding a testimonial waiver.

Chairman ISSA has also chosen to pursue contempt against Ms. Lerner after refusing an offer from her attorney for a brief 1-week delay so that his client could finally provide the testimony that Members on both sides of this aisle have been asking for.

These legally flawed contempt proceedings bring us no closer to receiving Ms. Lerner's testimony and have only served to divert our time, focus, and resources away from our rightful inquiry into the troubling events at the IRS. They are also reflective of the partisan manner in which this $14 million investigation—so far—has been conducted to date.

Chairman ISSA has refused to release the full transcripts of the now 39 transcribed interviews conducted by committee staff with relevant IRS and Treasury officials. He has also recently released two staff reports on these events that were not even provided to the Democratic members prior to their release.

In closing, I urge my colleagues to join me in opposing this resolution.

Mr. ISSA. Mr. Speaker, I would like to correct the record. It is now 40 transcribed interviews, and we have received 12,000 emails from Lois Lerner today. So that $14 million probably went up a little bit because today the IRS finally turned over some of the documents they owed this committee under subpoena for over half a year.

I now yield 2 minutes to the distinguished gentleman from Florida (Mr. MICA).

Mr. MICA. I thank the chairman for yielding.

Mr. Speaker, there is probably nothing more sacred to Americans, nothing more important to protect, than the democratic electoral process which has made this, by far, the greatest country in the world, giving everyone an opportunity to participate.

□ 1645

We are here today to hold Lois Lerner in contempt. It has been stated she didn't have her rights recognized. She has the right to take the Fifth. She has done that under the Constitution. We brought her in twice, May 22, 2013, and March 2014. She began—and you can see the tapes—declaring her innocence. Even before that, when it was pointed out that she was at the heart of this matter—in fact, everyone, her employees, when she tried to throw them under the bus, they said she threw them under a convoy of Mack trucks.

Every road leads to Lois Lerner. Lois Lerner held the Congress of the United States in contempt and is holding it in contempt. Lois Lerner held the electoral process that is so sacred to the country in contempt. Lois Lerner has held the American people and the process that they cherish and the chief financial agency, the IRS—whom we all

have to account to—as a tool to manipulate a national election. This was a targeted, directed, and focused attempt, and every road leads to Lois Lerner.

She has had twice the opportunity to come before Congress and to tell the whole truth and nothing but the truth, and she has failed to do that. I urge that we hold Lois Lerner in contempt. That is our responsibility, and it must be done.

Mr. CUMMINGS. Mr. Speaker, with all due respect to the gentleman who just spoke, even the IG found that Lois Lerner did not learn about these inappropriate terms until about a year afterwards, the IG that was appointed by a Republican President.

With that, I yield 3 minutes to the gentleman from Virginia (Mr. CONNOLLY), a distinguished member of our committee.

Mr. CONNOLLY. Mr. Speaker, I thank my dear friend, the distinguished ranking member of the Oversight and Government Reform Committee. I think, Mr. Speaker, if the Founders were here today and if they had witnessed the proceedings on the Oversight and Government Reform Committee with respect to Ms. Lois Lerner, they would have unanimously reaffirmed their commitment to the Fifth Amendment because rights were trampled on, frankly, starting with the First Amendment rights of the ranking member himself, who was cut off and not allowed to speak even after the chairman availed himself of the opportunity for an opening statement and no fewer than seven questions before cutting off entirely the ranking member of our committee.

But then we proceeded to trample on the Fifth Amendment while we were at it, and case law is what governs here. The court has said the self-incrimination clause, the Fifth Amendment, must be accorded liberal construction in favor of the right it was intended to secure since the respect normally accorded the privilege is buttressed by the presumption of innocence accorded to the defendant in a criminal trial. In other words, it is the same. It is the equivalent of the presumption of innocence.

Madison said that if all men—and he meant all men and women, I am sure—were angels, we wouldn't need the Fifth Amendment. Lois Lerner is not to be defended here. She is not a heroic character. But she is a citizen who has an enumerated right in the Constitution of the United States. The relevant case, besides Quinn v. the United States, comes from the 1950s. A U.S. citizen, Diantha Hoag, was taken before the permanent subcommittee, and she was asked questions. She, also, like Lois Lerner, had a prefatory statement declaiming her innocence that she was not a spy, she had not engaged in subversion, and then she proceeded to invoke her Fifth Amendment, just like Lois Lerner.

In fact, the difference is Ms. Hoag actually once in a while answered ''yes'' or ''no'' to some questions put to her. She was found to be in contempt. The chairman of the committee jumped on it, just like our chairman did, and said, aha, gotcha. Two years later, the court found otherwise. The court unanimously ruled that Ms. Hoag had not waived her Fifth Amendment right. She was entitled to a statement of innocence, and that didn't somehow vitiate her invocation of her Fifth Amendment right, and her Fifth Amendment right was upheld.

This is about trampling on the constitutional rights of U.S. citizens—and for a very crass reason, for a partisan, political reason. We heard the distinguished majority leader, my colleague and friend from Virginia, assert something that is absolutely not true, which is that only conservative groups were targeted by the IRS. That is not true, and we have testimony it is not true. Words like ''Occupy,'' ''ACORN,'' and ''progressive'' were all part of the so-called BOLO list. They, too, were looked at.

This was an incompetent, ham-handed effort by one regional office in Cincinnati by the IRS. Was it right? Absolutely not. But does it rise to the level of a scandal, or the false assertion by the chairman of our committee on television, as the ranking member cited, that somehow it goes all the way to the White House picking on political enemies? Flat out untrue, not a scintilla of evidence that that is true. And to have the entire House of Representatives now voting on the contempt citation and declaring unilaterally that a U.S. citizen has waived her constitutional rights does no credit to this House and is a low moment that evokes the spirit of Joe McCarthy from a long ago era. Shame on us for what we are about to do.

Mr. ISSA. Mr. Speaker, nobody answered the debunking that we put out, this document, nobody. This document makes it clear it was all about targeting and abusing conservative groups, and the gentleman from Virginia knows that very well.

With that, it is my honor to yield 2 minutes to the gentleman from Oklahoma (Mr. LANKFORD), who has championed so many of these issues in our investigations.

Mr. LANKFORD. Mr. Speaker, about 3 years ago, all of our offices starting getting phone calls from constituents saying they are being asked very unusual questions by the IRS. They were applying for non-profit status. They were patriot groups, they were Tea Party groups, and they were constitutional groups. Whatever their name might be, they were getting these questions coming back in. Questions like: Tell us, as the IRS, every conversation you have had with a legislator and the contents of those conversations. Tell us, and give us copies of the documents that are only given to members of your organization. If there is a private part of your Web site that is only set aside for members, show us all of those pages. And by the way, all of those questions were prefaced with a statement from the IRS as, whatever documents you give us will also be made public to everyone.

So the statement was: Tell us what you privately talked about with legislators, and tell us what only your members get because we are going to publish it.

So, of course, we started to get questions about that. The inspector general starts an investigation on that, and on May the 10th of last year, 2013, Lois Lerner stands up in a conference, plants a question in the audience to talk about something completely irrelevant to the conference so she can leak out that this investigation is about to be burst out. Four days later, the inspector general launches this investigation and says that conservative groups have been unfairly targeted—298 groups have their applications held, isolated. They were asked for all these things, and when they turned documents in, they were stored. The initial accusation was that this was a crazy group from Cincinnati that did this.

So our committee happened to bring in these folks from Cincinnati. They all said they wanted to be able to advance these applications, and they were told, no, hold them. We asked the names of the people in Washington who told them to hold them. We brought those folks in. They said they wanted to also move them, and they were told by the counsel's office to hold them.

As we continued to work through point after point, through person after person, all of them come back to Lois Lerner's office, Lois Lerner, who had come in before us May 22, 2013, made a long statement professing her innocence, saying she had done nothing wrong, had broken no law, and then said: I won't answer questions.

What is at stake here is a constitutional principle: can a person stand before a court or before the Congress and make a long statement saying ''I have done nothing wrong'' and then choose to not answer questions? This is a precedent before every Congress from here on out and in front of every court. Can this be done?

We would say no. It is not just a statement about accepting that she is guilty, though all the evidence leads back to her and her office. It is that if you have the right to remain silent, do you actually remain silent during that time period?

Mr. CUMMINGS. Mr. Speaker, I would say to the gentleman that we are talking about the constitutional rights of a United States citizen, and we do not have the right to remain silent, as Members of Congress, if those rights are being trampled on.

I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished leader.

Mr. HOYER. Mr. Speaker, if this is a precedent, it is a bad precedent. It is a dangerous precedent. It is a precedent that we ought not to make. ''Read the

Constitution,'' I heard over and over and over again. I have read probably the opinions of 25 lawyers whom I respect from many great institutions in this country, none of whom, as I am sure the ranking member has pointed out, none of whom believe that the precedent supports this action.

Mr. Speaker, what a waste of the people's time for Congress to spend this week on politics and not policy. We are about to vote on a resolution that is really a partisan, political message. Everyone here agrees—everyone—that the IRS should never target anyone based on anything other than what they owe in taxes, not their political beliefs or any other traits other than their liability and their opportunities to pay their fair share to the United States of America.

In fact, during an exhaustive investigation into the IRS, Chairman ISSA's committee interviewed 39 witnesses, analyzed more than 530,000 pages, and could not find the conspiracy they were looking for—that they always look for, that they always allege. Fourteen million dollars of taxpayer money has already been spent on this investigation, and all that was found was that which we already knew: that the division led by Ms. Lerner suffered from fundamental administrative and managerial shortcomings that bore no connection to politics or to partisanship.

Independent legal experts have concluded that Chairman ISSA's efforts to hold Ms. Lerner in contempt of Congress is constitutionally deficient. But this resolution before us today is, of course, not meant to generate policy. It is meant to generate headlines. Republicans, once again, are showing that they are more interested in partisan, election-year gimmicks than working in a bipartisan way to tackle our country's most pressing challenges. We ought to turn to the important matters of creating jobs, raising the minimum wage, and restoring emergency unemployment for those who are struggling to find work—issues the American people overwhelmingly support and want their Congress to address.

Mr. Speaker, I urge my colleagues to give this partisan resolution the vote it deserves and defeat it so that we can turn to the people's business.

In closing, let me say this, Mr. Speaker. There are 435 of us in this body.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CUMMINGS. I yield the gentleman an additional 30 seconds.

Mr. HOYER. I thank the gentleman.

Mr. Speaker, I urge all of my colleagues, do not think about party on this vote. Think about precedent. Think about this institution. Think about the Constitution of the United States of America. And if you haven't read, read some of the legal opinions that say you have to establish a predicate before you can tell an American that they will be held criminally liable if they don't respond to your questions.

That is what this issue is about. It is not about party, it is not about any of us, but about the constitutional protections that every American deserves and ought to be given.

Mr. CUMMINGS. Mr. Speaker, may I inquire how much time each side has remaining?

The SPEAKER pro tempore. The gentleman from Maryland has 8¼ minutes remaining. The gentleman from California has 14¾ minutes remaining.

Mr. CUMMINGS. Mr. Speaker, I reserve the balance of my time.

□ 1700

Mr. ISSA. Mr. Speaker, I simply want to correct the record. Earlier, a minority Member stated that, with 35 words said by Lois Lerner, our count is 305. Hopefully, their inaccuracy of their experts will be considered the same.

With that, I yield 2 minutes to the gentleman from Arizona (Mr. GOSAR).

Mr. GOSAR. Mr. Speaker, I rise in support of this resolution. The people's House has thoroughly documented Lois Lerner's trespasses, including her history of targeting conservative groups, as well as the rules and laws she has broken. In fact, there is a 443-page committee report supporting these allegations.

We know that Ms. Lerner refuses to comply with a duly-issued subpoena from the House Oversight and Government Reform Committee, and without Ms. Lerner's full cooperation, the American public will not have the answer it needs from its government.

My friends across the aisle have continuously cried foul over this legitimate investigation; but where is their evidence to put this issue to rest?

Let me say that I do not enjoy holding any Federal official in contempt or pursuing criminal charges because doing so means that we have a government run amuck and a U.S. Attorney General who does not uphold the rule of law. Such a predicament is a lose-lose situation for all Americans and our Constitution.

As uncomfortable as it may be, it is our job to proceed in the name of government accountability. I support this resolution, and it is way past time for contempt for Lois Lerner.

Mr. CUMMINGS. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont (Mr. WELCH).

Mr. WELCH. Mr. Speaker, I thank the gentleman.

Mr. Speaker, there is a reason that the American people hold the Congress of the United States in such lowest esteem. We are providing them with some additional basis to have that opinion, and this here is what it is.

Number one, this was an important investigation. We should do it. We should do it energetically, and we should do it together. Instead, information was constantly withheld from the minority.

Our own ranking member was cut off with really quite a bold gesture by the chairman at a certain point; and it created an impression that it was going to be a one-sided affair, rather than a balanced, cooperative approach. That is essential to having any credibility.

The second thing is: What do we do about Lois Lerner who took the Fifth? We have a debate about whether the manner in which she did that caused her to waive that Fifth Amendment privilege. That is a fair and square question.

Your side thinks she waived it and, therefore, should be held in contempt. Our side—and I think we have the weight of legal opinion—said she didn't waive it; but you know what, that is a legal question, and there is a document called the Constitution that separates the powers.

Whether this person crossed the line or didn't is a legal determination to be made by judges, not by a vote of Congress. Since when did Congress get to vote on judicial issues?

If we want this to be resolved in a way that has any credibility, it should be decided by the courts. Send this to the courts. Let the judges decide whether this was a waiver or it wasn't; but the idea that a Congress—this time run by Republicans, next time run by Democrats—can have a vote to make a legal determination about the rights of a citizen is in complete conflict with the separation of powers in our Constitution.

Mr. ISSA. Mr. Speaker, I thank the gentleman from Vermont in advance for his ''yes'' vote on this because the only way to send this to the court to be decided is to vote ''yes.'' In fact, we are not trying Lois Lerner. We are determining that she should be tried. The question should be before a Federal judge.

With that, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. LUMMIS), a member of the committee.

Mrs. LUMMIS. Mr. Speaker, I contend that, in the interest of protecting the constitutional rights of the hard-working taxpayers of this country from the behavior of the IRS, from Lois Lerner—herself a lawyer—who understands that you can waive your right to remain silent as to matters to which you chose to testify, and that she did that. She said: I have done nothing wrong, I have broken no laws.

Subsequently, we find out that she blamed the IRS employees in Cincinnati for wrongdoing that was going on here in Washington, D.C., that she was targeting conservative groups and only conservative groups, thereby violating their First Amendment constitutional rights.

The Oversight Committee needs to find the truth, and to that end, we need answers from Lois Lerner. The committee has sought these answers for more than a year. Lerner's refusal to truthfully answer these questions posed by the committee cannot be tolerated. I urge a ''yes'' vote and, following that, swift action by the Justice Department to ensure that Lois Lerner

provides answers on exactly what the IRS was up to.

Mr. CUMMINGS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DANNY K. DAVIS), a member of the committee.

Mr. DANNY K. DAVIS of Illinois. Mr. Speaker, I think all of us agree that one of the responsibilities of our committee is to investigate and try to make sure that the laws are carried out the way we intended and to try and make sure that the money is being spent the way we intended for it to be spent.

It seems to me that we have spent $14 million, up to this point, investigating this one issue; and while I think the investigations are designed to tell us something we don't know, we have not learned anything new. We have not learned of any kind of conspiracy. We have not learned of any kind of underhandedness.

The only thing that we know is that we have said to a United States citizen that you cannot invoke the Fifth and say: I have a right not to answer questions if I think it is going to damage me.

I would much rather see us spend the $14 million creating jobs, providing educational opportunities for those who need it, doing something that will change the direction and the flavor of the economics of our country, rather than wasting $14 million more on continuous investigations. I vote ''no.''

Mr. ISSA. Mr. Speaker, it is my distinct honor to yield 2 minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS of Georgia. Mr. Speaker, I appreciate the chairman yielding me this time.

Mr. Speaker, it is amazing. The American people still have not received answers that they deserve, I believe, from Lois Lerner. Just sitting here on the floor and listening for the last few minutes, it just really amazes me about what is being said.

It is said that, if the chairman had done this or if we had done something else, if we had not done this, and maybe she would have had more time, and maybe we would have found out the truth. Well, maybe if I turn my head sideways and squinted real hard, maybe she would have talked then.

But she did talk. She said a lot of things, including making 17 different factual assertions, and then decided: oops, don't want to talk anymore.

Here is the problem: no one has said or even implied that you can't assert your Fifth Amendment right. That has never been said on this floor. It has never been asserted by any member of the Republican Party.

What has been asserted is you can't come in and you can't say: I have done nothing wrong, no problem, I am clean; and, oh, by the way, quit asking because I am not going to answer any of your questions.

When you do that, then you are taking advantage of a system that you are not supposed to be taking advantage of. She could have walked in, from minute one, and said: Mr. Chairman, with all due respect, I am not going to answer a question. I am asserting my Fifth Amendment right.

She did not do that, and what we have now is not a waste of time. I believe there are a lot of things. The Republican majority is working on economic development, but I think one of the things we have to reassert in this country is trust, and right now, our American people do not trust us, and they do not believe that the government is in their favor.

Instances like this, when they are being asked inappropriate questions, when they are trying to fulfill their rights and freedom of speech, this is why we are here. You can't keep doing it.

Ms. Lerner needs to be held in contempt because all I have found on the floor of this House today is arguments that keep coming, that remind me of the song from Pink Floyd. I am just comfortably numb at this point because the arguments don't matter.

We never said she couldn't use her Fifth Amendment right. She just chose to say: I didn't do anything wrong.

That is not the way this process works, Ms. Lerner. It is time to testify.

Mr. CUMMINGS. I would say to the gentleman that is leaving the floor now who just spoke: the arguments do matter. This is still the United States of America. We still have constitutional rights, which we declare we will uphold every 2 years.

I yield 2 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, if the point of a contempt resolution is to find out what Lois Lerner knows, what the committee wants to know, whether there was a deliberate targeting of citizens for political reasons.

The fact is that the committee passed up the opportunity to learn this information. It asked her attorney: Would you tell us what she would tell us?

It is called a proffer. Indeed, her attorney sent a letter to the chairman offering to provide a proffer. That is the information we want to know. This proffer would detail what Ms. Lerner would testify.

Instead of accepting that proffer, the chairman went on national television and claimed that this written offer never happened. The chairman, therefore, never obtained the proffer that the attorney was willing to offer, the information which is the only reason we should be on this floor at all.

When the ranking member tried to ask about it at a hearing in March, the chairman famously cut off his microphone and closed down the hearing in one of the worst examples of partisanship the committee has ever seen.

The chairman did something similar when Ms. Lerner's attorney offered to have her testify with a simple one-week extension, Mr. Speaker, since the attorney had obligations out of town.

Rather than accept this offer to get the committee the information that is at the bottom of this contempt matter today, the chairman went on national television and declared, inaccurately, that she would testify without the extension. Of course, that meant nothing could happen. There was no trust left.

Clearly, what the committee wanted was a Fifth Amendment show hearing, in violation of Ms. Lerner's rights. They wanted a contempt citation vote. That is the political contempt citation vote scheduled today. It will never hold up in the courts of the United States of America.

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

I have worked long and hard with the gentlewoman from the District of Columbia. She is a good person, but her facts simply are 100 percent wrong. Every single one of her assertions were simply not true. You can go to pages 11, 12, and 13 of this 400-plus page report, and you can see none of those statements are true.

We would have accepted a proffer from the attorney. We were not given one; although I will say he did tell us, one time, we wouldn't like what she said if she said something. When I went on national television, I did so because of written communication that indicated that she would appear and testify.

Additionally, the gentlelady did make one point that was very good. It was very good. The attorney told us that she needed another week to prepare, which we were willing to give her; but when we learned it was actually inconvenient for the attorney to necessarily prep her, we said, if he would come in with his client and agree that she was going to testify, we would recess and give her the additional week.

When they came in that day, no such offer was on the table from her attorney, but, in fact, he said she had decided that she simply didn't want to speak to us—not that she was afraid of incrimination—because you can't be afraid of incrimination and not afraid, back and forth. That is pretty clear.

Her contempt for our committee was, in fact, contempt for the body of Congress, while she was happy to speak at length, apparently, with the Department of Justice, perhaps with that $6,000 or $7,000 contributor to President Obama that is so involved in that investigation.

With that, I yield 2 minutes to the gentleman from Michigan (Mr. BENTIVOLIO).

□ 1715

Mr. BENTIVOLIO. Mr. Speaker, I stand in support of this resolution recommending that the House of Representatives find Lois Lerner in contempt of Congress.

Our Pledge of Allegiance ends with the words, ''with liberty and justice for all.'' Lois Lerner's actions have made it nearly impossible for us to follow those ideals for the victims of the IRS

targeting scandal. She has placed obstacle after obstacle in front of our pursuit for the truth, worrying that her ideology and the actions of a corrupt Federal agency will be exposed.

I ask my colleagues to join our effort in promoting transparency in our government. As Members of Congress, it is our job to protect rights, not take them away.

Mr. CUMMINGS. I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. FARENTHOLD), a member of the committee.

Mr. FARENTHOLD. Mr. Speaker, I am here today because I do believe Lois Lerner waived her Fifth Amendment right to testify, and by so doing and not answering our questions, she was in contempt of Congress.

The other side makes a big deal about this being political and preserving constitutional rights, but the way the system is supposed to work: we will find Ms. Lerner in contempt; the Justice Department will then go to court; there will be a full hearing in the court. And this may very well make it to the United States Supreme Court.

Her rights will be protected, but we have also got to protect the rights of the people. We are the people's House. It is our job to get to the bottom of the scandals that are troubling the American people so that we can regain the trust of the American people.

You know, it is healthy to be skeptical of your government, but when you don't believe a word that comes out of the mouth of the administration, there is a real problem.

We have got to reclaim our power here. We are struggling. I don't think the Justice Department is going to pursue this. I think the same thing will happen to Ms. Lerner that happened with Mr. Holder—the Justice Department is going to decline to move forward with it—but we have got to do our job.

I also want to point out that we have got to deal with these people who are in contempt of Congress. For that reason, I have H.R. 4447 that is pending before this House that would withhold the pay of anyone in contempt of Congress. We have got to use the power of the purse and everything we have got to reclaim the power of the purse and the power that the Constitution gave this body to get to the truth and be the representatives of the people.

Mr. CUMMINGS. I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I now yield 1 minute to the gentleman from Texas (Mr. GOHMERT), who, by the way, is, in fact, a constitutional scholar in his own right.

Mr. GOHMERT. Mr. Speaker, I was struck by the comments by the minority whip instructing us to check the Constitution. That really struck me, because I believe I recall him standing up and applauding in this Chamber when the President said: If Congress doesn't do its job, I will basically do it for them. So someone that would do that doesn't need to be giving lectures on the Constitution.

We have powers under the Constitution that we have got to protect. When someone stands up and exerts their innocence repeatedly and then attempts to take the Fifth Amendment right, it is not there. This is the next step. It will preserve the sanctity and the power of this body, whether it is Democrats or Republicans in charge or anyone who attempts to skirt justice and provide truth.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume.

As I close, I want to remind all of my colleagues, several references have been made to the oath that we take every 2 years in this Chamber. Every 2 years we stand in this Chamber and we say:

> I do solemnly swear that I will support and defend the Constitution against all enemies, foreign and domestic.

It is the first words we say.

It is interesting that at the beginning of that swearing in is that we will defend the Constitution of the United States of America. Yesterday we had a very interesting argument in rules when one of the members of the Rules Committee questioned whether when one becomes a public employee, whether they then lose their rights as an American citizen. It is clear that those rights do stand, no matter whether you are a public servant or whether you are a janitor at some coffee shop.

We are in a situation today where we need to be very clear what is happening. Not since McCarthy has this been tried, that is the stripping away of an American citizen's constitutional right not to incriminate themselves and then holding them in contempt criminally. McCarthy. We are better than that. We are so much better.

The idea that somebody can come in after their lawyer has sent a letter in saying they are going to take the Fifth, then the lawyer comes in, sits behind them while they take the Fifth, then the person says they are taking the Fifth, and then suddenly when they say, ''I declare my innocence,'' we say, ''Gotcha.''

The Supreme Court has said this is not a gotcha moment. It is not about that. The Supreme Court has said these rights, no matter how much we may not like the person who we are talking about, no matter how much we may think they are hiding, they have rights. That is what this is all about.

Mr. Speaker, I urge my colleagues to make sure that they vote against this, because this is about generations yet unborn, how they will view us during our watch.

I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

I regret that we have to be here today. If it is within my power, if at any time Lois Lerner comes forward to answer our questions, I am fully prepared to hear what she has to say, and at that point I would certainly ask that the criminal prosecution be dropped. It may not be within my power after today.

For more than a year, our committee has sought to get her testimony. For nearly a year we have sought to get her to testify honestly. It was shocking to us on the committee, on the top of the dais, that a lawyer represented by a distinguished lawyer would play fast and loose with the Fifth Amendment assertion. It is a pretty straightforward process to assert your rights. In fact, her attorney may have planned all along to have a controversy. I will never know.

What I do know is we asserted that she had waived because we were advised by House counsel, an independent organization, that she had. We continue to investigate, and only today, nearly a year after a subpoena was issued, the Treasury, the IRS, actually gave us another 12,000 emails. Like earlier emails, they indicate a deeply political individual, partisan in her views, who apparently was at the center of deciding that when the President, in this well, objected to Citizens United, that it meant they wanted us to fix it, and she was prepared to do it. That is for a different court to decide.

The only question now is did she in fact give testimony, then assert the Fifth Amendment, then give some more testimony, and can we have that kind of activity.

We have dismissed other people who came before our committee, asserted their Fifth Amendment rights. After enough questions to know that they were going to continue to assert, we dismissed them. We have a strong record of respecting the First, the Fourth, the Fifth, the Sixth Amendment and so on. That is what this Congress does, and we do it every day, and our committee does it.

Rather than listen to debate here which was filled with factual inaccuracies, refuted in documentation that is available to the American people, rather than believe that the minority's assertion should carry the day because the gentleman from Georgia said if about eight different if-thens, then they would vote for this, well, I believe that the gentleman from Vermont said it very well when he said: We shouldn't be doing this. We shouldn't be finding her guilty. This should be before a judge. He may not have understood what he was saying, because what he was saying is exactly what we are doing. We are putting the question of did she properly waive or not and should she be back before us or be held in contempt and punished for not giving it.

This won't be my decision. This will be a lifetime-appointment, nonpartisan Federal judge. The only thing we are doing today is sending it for that consideration. If the court rules that in fact her conduct was not a waiver, then

we will have a modern update to understand the set of events here.

We will still have the same problem, which is Lois Lerner was at the center of an operation that systematically abused Americans for their political beliefs, asked them inappropriate questions, delayed and denied their approvals.

The minority asserted, well, they could have self-selected. Maybe they could have, maybe they should have, but it wouldn't change the fact that under penalty of perjury the IRS was asking them inappropriate questions which they intended to make public.

The IRS is an organization that we do not have confidence in now as Americans. We need to reestablish that, and part of it is understanding how and why a high-ranking person at the IRS so blatantly abused conservative groups in America that were adverse to the President, no doubt. But that should not be the basis under which you get scrutinized, audited, or abused, and yet it clearly was.

Mr. Speaker, it is essential we vote ''yes'' on contempt. Let the court decide, but more importantly, let the American people have confidence that we will protect their rights from the IRS.

With that, I urge support, and I yield back the balance of my time.

Mr. POSEY. Mr. Speaker, in March of 2012, then-IRS Commissioner Douglas Shulman assured Congress: "there is no targeting of conservative groups." Yet, I continued to hear stories from constituents telling me a different story. On April 23, 2012, I joined with 62 of my House colleagues in writing the IRS Commissioner inquiring further about the possible targeting. We were assured that the rules were being applied fairly and that there was no targeting or delay of processing applications from conservative groups.

In April of 2013, top IRS official Lois Lerner revealed in a public forum that the agency had been discriminating against more than 75 groups with conservative sounding names like "Tea Party" or "Patriot" in the run-up to the 2012 election the very time we were inquiring. Ms. Lerner actually went so far as to plant a question in the audience about the issue. Ms. Lerner's admission came just days before the release of an internal Treasury Inspector General audit that documented that the IRS had been misleading Congress.

When asked by Members of the House about the targeting, Miss Lerner has refused to answer our questions on multiple occasions, prompting the House to find her in contempt of Congress. The rights of hundreds and perhaps thousands of ordinary Americans have been violated, and I am most concerned about making sure that justice is pursued in protecting their rights.

Further allegations of abuse have been made by other conservative groups. The IRS admitted that someone violated the law and leaked confidential taxpayer information on a Republican Senatorial candidate. Disclosing confidential taxpayer information is one of the worst things an IRS employee can do—it's a felony, punishable with a $5,000 fine and up to five years in prison. The Treasury Inspector General noted eight instances of unauthorized access to records, with at least one willful violation, yet Attorney General Eric Holder has failed to prosecute. Why?

Earlier this year I led an effort with the support of over fifty of my House colleagues demanding that Attorney General Eric Holder appoint an independent special prosecutor to investigate these IRS abuses. Instead, A.G. Holder has appointed a partisan Democrat to lead the Justice Department's internal investigation who has donated thousands of dollars to the President's campaign and other Democrat campaigns. This is completely unacceptable.

It's long past time that we have a real and thorough investigation conducted by an objective investigator. Thousands of American citizens deserve to see justice pursued rather than have these abuses swept, under the rug.

The SPEAKER pro tempore. All time for debate on the resolution has expired.

Pursuant to clause 1(c) of rule XIX, further consideration of House Resolution 574 is postponed.

## APPOINTMENT OF SPECIAL COUNSEL TO INVESTIGATE INTERNAL REVENUE SERVICE

Mr. GOODLATTE. Mr. Speaker, pursuant to House Resolution 568, I call up the resolution (H. Res. 565) calling on Attorney General Eric H. Holder, Jr., to appoint a special counsel to investigate the targeting of conservative nonprofit groups by the Internal Revenue Service, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 568, the resolution is considered read.

The text of the resolution is as follows:

H. RES. 565

Whereas in February of 2010, the Internal Revenue Service (''IRS'') began targeting conservative nonprofit groups for extra scrutiny in connection with applications for tax-exempt status;

Whereas on May 14, 2013, the Treasury Inspector General for Tax Administration (TIGTA) issued an audit report entitled, ''Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review'';

Whereas the TIGTA audit report found that from 2010 until 2012 the IRS systematically subjected tax-exempt applicants to extra scrutiny based on inappropriate criteria, including use of the phrases ''Tea Party'', ''Patriots'', and ''9/12'';

Whereas the TIGTA audit report found that the groups selected for extra scrutiny based on inappropriate criteria were subjected to years-long delay without cause;

Whereas the TIGTA audit report found that the groups selected for extra scrutiny based on inappropriate criteria were subjected to inappropriate and burdensome information requests, including requests for information about donors and political beliefs;

Whereas on January 27, 2010, in his State of the Union Address, President Barack Obama criticized the Citizens United v. Federal Election Commission decision, saying: ''With all due deference to separation of powers, last week the Supreme Court reversed a century of law that I believe will open the floodgates for special interests—including foreign corporations—to spend without limit in our elections'';

Whereas throughout 2010, President Barack Obama and congressional Democrats publicly criticized the Citizens United decision and conservative-oriented tax-exempt organizations;

Whereas the Exempt Organizations Division within the IRS's Tax-Exempt and Government Entities Division has jurisdiction over the processing and determination of tax-exempt applications;

Whereas on September 15, 2010, Lois G. Lerner, Director of the Exempt Organizations Division, initiated a project to examine political activity of 501(c)(4) organizations, writing to her colleagues, ''[w]e need to be cautious so it isn't a per se political project'';

Whereas on October 19, 2010, Lois G. Lerner told an audience at Duke University's Sanford School of Public Policy that ''everybody'' is ''screaming'' at the IRS ''to fix the problem'' posed by the Citizens United decision;

Whereas on February 1, 2011, Lois G. Lerner wrote that the ''Tea Party matter [was] very dangerous,'' explaining ''This could be the vehicle to go to court on the issue of whether Citizen's [sic] United overturning the ban on corporate spending applies to tax exempt rules'';

Whereas Lois G. Lerner ordered the Tea Party tax-exempt applications to proceed through a ''multi-tier review'' involving her senior technical advisor and the Chief Counsel's office of the IRS;

Whereas Carter Hull, a 48-year veteran of the Federal Government, testified that the ''multi-tier review'' was unprecedented in his experience;

Whereas on June 1, 2011, Holly Paz, Director of Rulings and Agreements within the Exempt Organizations Division, requested the tax-exempt application filed by Crossroads Grassroots Policy Strategies for review by Lois G. Lerner's senior technical advisor;

Whereas in June 2011, Lois G. Lerner ordered the Tea Party cases to be renamed because she viewed the term ''Tea Party'' to be ''pejorative'';

Whereas on March 22, 2012, IRS Commissioner Douglas Shulman was specifically asked about the targeting of Tea Party groups applying for tax-exempt status during a hearing before the House Committee on Ways and Means, to which he replied, ''I can give you assurances . . . [t]here is absolutely no targeting.'';

Whereas on April 26, 2012, IRS Exempt Organizations Director Lois G. Lerner informed the House Committee on Oversight and Government Reform that information requests were done in ''the ordinary course of the application process'';

Whereas on May 4, 2012, IRS Exempt Organizations Director Lois G. Lerner provided to the House Committee on Oversight and Government Reform specific justification for the IRS's information requests;

Whereas prior to the November 2012 election, the IRS provided 31 applications for tax-exempt status to the investigative website ProPublica, all of which were from conservative groups and nine of which had not yet been approved by the IRS, and Federal law prohibits public disclosure of application materials until after the application has been approved;

Whereas the initial ''test'' cases developed by the IRS were applications filed by conservative-oriented Tea Party organizations;

Whereas the IRS determined, by way of informal, internal review, that 75 percent of the affected applications for 501(c)(4) status

were filed by conservative-oriented organizations;

Whereas on January 24, 2013, Lois G. Lerner e-mailed colleagues about Organizing for Action, a tax-exempt organization formed as an offshoot of President Barack Obama's election campaign, writing: ''Maybe I can get the DC office job!'';

Whereas on May 8, 2013, Richard Pilger, Director of the Election Crimes Branch of the Department of Justice's Public Integrity Section, spoke to Lois G. Lerner about potential prosecution for false statements about political campaign intervention made by tax-exempt applicants;

Whereas on May 10, 2013, IRS Exempt Organizations Director Lois G. Lerner apologized for the IRS's targeting of conservative tax-exempt applicants during a speech at an event organized by the American Bar Association;

Whereas the Ways and Means Committee determined that, of the 298 applications delayed and set aside for extra scrutiny by the IRS, 83 percent were from right-leaning organizations;

Whereas the Ways and Means Committee also determined that, as of Lois G. Lerner's May 10, 2013 apology, only 45 percent of the right-leaning groups set aside for extra scrutiny had been approved, while 70 percent of left-leaning groups and 100 percent of the groups with ''progressive'' names had been approved;

Whereas the Ways and Means Committee has also determined that, of the groups that were inappropriately subject to demands to divulge confidential donors, 89 percent were right-leaning;

Whereas on May 15, 2013, Attorney General Holder testified before the Judiciary Committee that the Department of Justice would conduct a ''dispassionate'' investigation into the IRS matter, and ''[t]his will not be about parties . . . this will not be about ideological persuasions . . . anybody who has broken the law will be held accountable'';

Whereas on May 15, 2013, President Barack Obama called the IRS's targeting ''inexcusable'' and promised that he would ''not tolerate this kind of behavior in any agency, but especially in the IRS, given the power that it has and the reach that it has into all of our lives'';

Whereas the Attorney General has stated that the Department of Justice's investigation involves components from the Civil Rights Division and the Public Integrity Section;

Whereas the Civil Rights Division of the Department of Justice has a history of politicization, as evident in the report by the Department of Justice Office of Inspector General entitled, ''A Review of the Operations of the Voting Rights Section of the Civil Rights Division'';

Whereas Barbara Bosserman, a trial attorney in the Civil Rights Division who in the past several years has contributed nearly $7,000 to the Democratic National Committee and President Barack Obama's political campaigns, is playing a leading role in the Department of Justice's investigation;

Whereas the Public Integrity Section communicated with the IRS about the potential prosecution of tax-exempt applicants;

Whereas on December 5, 2013, President Barack Obama declared in a national television interview that the IRS's targeting of conservative tax-exempt applicants was caused by a ''bureaucratic'' ''list'' by employees in ''an office in Cincinnati'';

Whereas on April 9, 2014, the House Committee on Ways and Means referred Lois G. Lerner to the Department of Justice for criminal prosecution;

Whereas the House Committee on Ways and Means found that Lois G. Lerner used her position to improperly influence agency action against conservative tax-exempt organizations, denying these groups due process and equal protection rights as guaranteed by the United States Constitution, in apparent violation of section 242 of title 18, United States Code;

Whereas the House Committee on Ways and Means found that Lois G. Lerner targeted Crossroads Grassroots Policy Strategies while ignoring similar liberal-leaning tax-exempt applicants;

Whereas the House Committee on Ways and Means found that Lois G. Lerner impeded official investigations by knowingly providing misleading statements to the Treasury Inspector General for Tax Administration, in apparent violation of section 1001 of title 18, United States Code;

Whereas the House Committee on Ways and Means found that Lois G. Lerner may have disclosed confidential taxpayer information, in apparent violation of section 6103 of the Internal Revenue Code;

Whereas former Department of Justice officials have testified before a subcommittee of the House Committee on Oversight and Government Reform that the circumstances of the Administration's investigation of the IRS's targeting of conservative tax-exempt applicants warrant the appointment of a special counsel;

Whereas Department of Justice regulations counsel attorneys to avoid the ''appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution'';

Whereas since May 15, 2013, the Department of Justice and the Federal Bureau of Investigation have refused to cooperate with congressional oversight of the Administration's investigation of the IRS's targeting of conservative tax-exempt applicants;

Whereas on January 13, 2014, unnamed officials at the Department of Justice leaked to the media that no criminal charges would be appropriate for IRS officials who engaged in the targeting activity, which undermined the integrity of the Department of Justice's investigation;

Whereas on February 2, 2014, President Barack Obama stated publicly that there was ''not even a smidgen of corruption'' in connection with the IRS targeting activity;

Whereas on April 16, 2014, electronic mail communications between the Department of Justice and the IRS were released showing that the Department of Justice considered prosecuting conservative nonprofit groups for engaging in political activity that is legal under Federal law, which damaged the integrity of the Department and undermined its investigation; and

Whereas the Code of Federal Regulations requires the Attorney General to appoint a Special Counsel when he or she determines—

(1) that criminal investigation of a person or matter is warranted,

(2) that investigation or prosecution of that person or matter by a United States Attorney's Office or litigating Division of the Department of Justice would present a conflict of interest for the Department or other extraordinary circumstances, and

(3) that under the circumstances, it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter: Now, therefore, be it

*Resolved*, That it is the sense of the House of Representatives that—

(1) the statements and actions of the IRS, the Department of Justice, and the Obama Administration in connection with this matter have served to undermine the Department of Justice's investigation;

(2) the Administration's efforts to undermine the investigation, and the appointment of a person who has donated almost seven thousand dollars to President Obama and the Democratic National Committee in a lead investigative role, have created a conflict of interest for the Department of Justice that warrants removal of the investigation from the normal processes of the Department of Justice;

(3) further investigation of the matter is warranted due to the apparent criminal activity by Lois G. Lerner, and the ongoing disclosure of internal communications showing potentially unlawful conduct by Executive Branch personnel;

(4) given the Department's conflict of interest, as well as the strong public interest in ensuring that public officials who inappropriately targeted American citizens for exercising their right to free expression are held accountable, appointment of a Special Counsel would be in the public interest; and

(5) Attorney General Holder should appoint a Special Counsel, without further delay, to investigate the IRS's targeting of conservative nonprofit advocacy groups.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. GOODLATTE) and the gentlewoman from Texas (Ms. JACKSON LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H. Res. 565.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

On May 10, 2013, the Internal Revenue Service admitted to inappropriately targeting conservative groups for extra scrutiny in connection with their applications for tax-exempt status.

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President Obama denounced this behavior as ''outrageous'' and ''unacceptable'' and stated that the IRS ''as an independent agency requires absolute integrity, and people have to have confidence that they're applying the laws in a nonpartisan way.'' He pledged that the administration would ''find out exactly what happened'' and would make sure wrongdoers were ''held fully accountable.''

In testimony before my committee on May 15, 2013, Attorney General Holder testified that the Department of Justice would conduct a ''dispassionate'' investigation into the IRS's admitted targeting of conservative groups. The Attorney General promised me and the members of the Judiciary Committee that ''this will not be about parties, this will not be about ideological persuasions, and anyone who has broken the law will be held accountable.''

Unfortunately, that appears to be where the administration's commitment to pursuing this investigation ended. We have all seen the testimony

from conservative groups stating that they had yet to be interviewed by the Department of Justice investigators more than a year after the allegations came to light. Additionally, the administration has sought to undermine whatever investigation the DOJ was conducting at every opportunity.

Earlier this year, unnamed Department of Justice officials leaked information to The Wall Street Journal suggesting that the Department does not plan to file criminal charges over the IRS's targeting of conservative groups. When asked who leaked this information to the media and if the Department plans to prosecute the leaker once identified, Attorney General Holder admitted that he has not looked into this leak.

Additionally, on Super Bowl Sunday, President Obama stated that there was ''not even a smidgen of corruption'' in connection with the IRS targeting.

Finally, as we all know, the Department of Justice appointed Barbara Bosserman, an attorney in the notoriously politicized Civil Rights Division, to head the investigation. Ms. Bosserman has donated more than $6,000 to President Obama's campaigns in 2008 and 2012.

The relevant regulations require the Attorney General to appoint a special counsel when he determines three circumstances exist:

First, that criminal investigation of a person or matter is warranted;

Second, that investigation or prosecution of that person or matter by a United States Attorney's Office or litigating division of the Department of Justice would present a conflict of interest for the Department or other extraordinary circumstances;

And third, that under the circumstances, it would be in the public interest to appoint an outside special counsel to assume responsibility for the matter.

It should be noted that these regulations require the Attorney General to exercise subjective discretion. However, there should be little doubt to any neutral observer that the requirements for appointing a special counsel have been satisfied.

First, as shown in the Ways and Means Committee's referral letter to the Department of Justice, there are serious allegations that IRS officials, including former Director of Exempt Organizations Lois Lerner, violated Federal law by targeting conservative groups and by releasing tax confidential tax information to the media. We also know that troubling information continues to come to light about this matter, including that the Department of Justice considered prosecuting conservative nonprofit groups for engaging in political activity that is legal under Federal law.

Second, it is clear that a conflict of interest exists between DOJ investigators and this administration. As a legal matter, determining whether a conflict of interest exists requires a determination of whether external interests—one's own or those of other clients or third persons—are likely to impact the exercise of independent professional judgment. In addition to Ms. Bosserman's clear conflict of interest, this administration's statements and actions have repeatedly served to undermine the Department of Justice investigation and have created an indisputable conflict of interest.

Third, it is equally clear that appointing an outside special counsel to investigate this matter would be in the public interest. The American people are very concerned that their government has targeted individual American citizens for harassment solely on the basis of their political beliefs.

The American people deserve to know who ordered the targeting, when the targeting was ordered, and why. For many Americans, the IRS is the primary way they interact with the Federal Government. To now have the IRS acting as a politicized organization that persecutes citizens for their political beliefs shakes the core of American democracy. Under the circumstances, this administration cannot credibly investigate this matter. It is time for the Attorney General to appoint an independent, professional special counsel to get to the bottom of this.

I reserve the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I begin this discussion today, I rise in opposition to H. Res. 565. I want to lay the premise of the discussion as I begin to explain why the question of ''why?'' is not answered. I would imagine that the question of ''why?'' will not be answered by the conclusion of this debate.

The premise of the resolution H. Res. 565 is on the Federal regulations 601, 600.2, and 600.3. On the face of the resolution, in the facts, there is no evidence under either of the two initial ones. And that is, first, there has been no elimination of the question of whether there is a criminal investigation or whether there should be; and the grounds for appointing a special counsel include whether or not they determine such an investigation is needed, and that the investigation or prosecution of the person or matter by the United States Attorney's Office would present a conflict of interest. Then the circumstances will be in the public interest. None of those criteria have been met.

First of all, in a May 7 letter most recently, the U.S. Department of Justice has said there is an ongoing determination of criminal investigation, an ongoing investigation into all of the allegations. From the Ways and Means, from the Oversight Committee there is an ongoing U.S. Department of Justice investigation.

Now, I believe in congressional oversight, but I also believe in rational congressional oversight, which means, why are we asking for special counsel when the Department of Justice is in the middle of an active investigation? There has been no conclusion, there has been no suggestion that there will not be a further investigation or criminal investigation, and there is no proven conflict of interest.

The Department of Justice employee that has been mentioned by the majority:

One, is not lead counsel, as evidenced in a letter dated February 3, 2014;

And two, President Obama is not the point of this investigation, as I understand it, and the individual made private free speech donations in the course of a campaign.

Are you suggesting that a public employee does not have the private personal right, First Amendment right, of freedom of speech? I would think not.

So I rise in strong opposition to H. Res. 565. There are no grounds for it. The Justice Department is working and it is investigating. Again, for those of you who are unaware of the legal authority undergirding this resolution, it is based on a series of regulations promulgated by the Justice Department that has been adhered to by Republican and Democratic administrations. You may not like the results of it, but it gives the criteria for authorizing the Attorney General to appoint a special counsel ''when he or she determines that criminal investigation of a person or matter is warranted.''

There is an ongoing investigation. That means that at the conclusion, or when all of the data and information is reviewed, that decision is still to be made. There is no closure now to suggest that the Department of Justice has not done what it is supposed to do.

In sum, these circumstances are that the Justice Department's prosecution will present a conflict of interest for the Department and that it would be in the public interest for a special counsel to assume responsibility.

This measure that we are debating today, however, utterly fails to meet any of that criteria.

The sponsors of H. Res. 565 make bald, unsupported conflict of interest allegations against a mid-level career attorney whose only fault was to engage in lawful, constitutionally protected political activity, of which I have spoken, and is not the lead counsel—definitively is not the lead counsel.

We have two distinct and qualified experts: Bruce Green, a former Federal prosecutor and current professor of law at Fordham Law School, and Daniel Richman, an expert in criminal procedure from Columbia, who clearly articulate no basis for experts conflict of interest. In fact, the ranking member of the Oversight and Government Reform Committee issued a report earlier this week detailing that committee's yearlong investigation of the IRS efforts to screen applicants for their tax exempt status.

Among this report's principal findings are that over the course of lengthy

and detailed interviews of 39 witnesses, absolutely no evidence of White House involvement was identified. Not a single one of these witnesses' interviews revealed any evidence of political motivation.

These interviewees included IRS employees who identified themselves as Republicans, Democrats, Independents, and others who had no political affiliation.

Another fact that the supporters of this measure ignore is that there already is, as I have indicated, an ongoing investigation by the Justice Department in this matter, and they are complying with the structure of the appointment process for a special counsel. There has been no determination of conflict. There has been no determination that we are ending the investigation to the lack of satisfaction of the United States Congress. We are in an ongoing investigation.

600.2 of the Code, as I mentioned, of the Federal Regulations explicitly authorizes the Attorney General to direct an initial investigation in lieu of appointing a special counsel to determine whether grounds can even exist to warrant the appointment of a special counsel. But an easy manner, other than a resolution on the floor of the House: a simple letter could have been written to the Attorney General for his consideration.

So what is this resolution about? To begin with, it is pure political theater. Rather than simply writing a letter to the Attorney General asking him to appoint a special counsel, which is the time-honored way to do this, the House leadership has resorted to using a resolution that is subject to floor debate and, of course, C–SPAN coverage, but has no real legal effect.

Even The Wall Street Journal's editorial board, which is certainly not a partisan entity as it relates to its advocacy of President Obama or its administration, which is not a bastion of liberalism, noted in an editorial published a year ago that ''calling for a special prosecutor is a form of cheap political grace that gets a quick headline at the cost of less political accountability.''

I would rather have us working together, Mr. Speaker. I would rather us get to the facts. I would rather that the professional men and women of the U.S. Department of Justice be allowed to pursue this investigation unbiased and thorough.

Rather than promoting greater transparency, the appointment of a special counsel, as the Wall Street Journal points out, would have the opposite result. The Journal explains:

> With a special prosecutor, the probe would immediately move to the shadows, and the administration and the IRS would use it as an excuse to limit its cooperation with Congress. Special prosecutors aren't famous for their speed. If there were no indictments, whatever the prosecutor has discovered would stay secret. And even if specific criminal charges were filed, the facts of an indictment couldn't stray far from the four corners of the violated statute.

Beyond proving the specific case in court, a special prosecutor will not be as concerned with the larger public policy consequences and political accountability. We could be doing other things, and we could not be spending $14 million.

There has been no basis for this resolution to pass, and I ask my colleagues to oppose this resolution.

With that, I reserve the balance of my time.

Mr. Speaker, I rise in strong opposition to H. Res. 565.

For those of you who are unaware of the legal authority undergirding this resolution, it is based on a series of regulations promulgated by the Justice Department.

In pertinent part, section 600.1 of title 28 of the Code of Federal Regulations authorizes the Attorney General to appoint a special counsel "when he or she determines that criminal investigation of a person or matter is warranted," under certain specified circumstances.

In sum, these circumstances are that the Justice Department's prosecution would present a conflict of interest for the Department and that it would be in the public interest for a special counsel to assume responsibility for this matter.

This measure that we are debating today, however, utterly fails to meet any of these criteria.

The sponsors of H. Res. 565 make bald, unsupported conflict of interest allegations against a mid-level career attorney whose only fault was to engage in lawful—constitutionally protected—political activity.

In fact, the Ranking Member of the Oversight and Government Reform Committee issued a report earlier this week detailing that Committee's year-long investigation of the IRS efforts to screen applicants for their tax-exempt status.

Among this report's principal findings are that: over the course of lengthy and detailed interviews of 39 witnesses involved in this matter, absolutely no evidence of White House involvement was identified; and not a single one of these 39 witness interviews revealed any evidence of political motivation.

These interviewees included IRS employees who identified themselves as Republicans, Democrats, Independents, and others who had no political affiliation.

Another fact that the supporters of this measure ignore is that there already is an ongoing investigation by the Justice Department into this matter.

Indeed, section 600.2 of title 28 of the Code of Federal Regulations explicitly authorizes the Attorney General to direct an initial investigation—in lieu of appointing a special counsel—to determine whether grounds even exist to warrant the appointment of a special counsel.

So what is this resolution really about?

To begin with, it's pure political theater. Rather than simply writing a letter to the Attorney General asking him to appoint a special counsel, which is the time-honored way to do this, the House Leadership has resorted to using a resolution that is subject to floor debate and C-span coverage, but has no real legal effect.

Even the Wall Street Journal's Editorial Board, which is not a bastian of liberalism, noted in an editorial published a year ago that "calling for a special prosecutor is a form of cheap political grace that gets a quick headline at the cost of less political accountability."

And, rather than promoting greater transparency, the appointment of a special counsel, as the Wall Street Journal points out, would have the opposite result. The Journal explains:

> With a special prosecutor, the probe would immediately move to the shadows, and the Administration and the IRS would use it as an excuse to limit its cooperation with Congress. Special prosecutors aren't famous for their speed . . . . If there were no indictments, whatever the prosecutor has discovered would stay secret. And even if specific criminal charges were filed, the facts of an indictment couldn't stray far from the four corners of the violated statute.
>
> Beyond proving his specific case in court, a special prosecutor will not be as concerned with the larger public policy consequences and political accountability.

The Wall Street Journal concludes by pointing out the obvious:

> Congress can do the investigating first, and if it discovers criminal behavior it can make that known and refer the cases and evidence to Mr. Holder, who will then be accountable if he refuses to act.

Unfortunately, the real scandal here is that this foolhardy witch hunt directed at the IRS has cost American taxpayers well in excess of $14 million dollars, money that we all know could have been better spent.

And now we are wasting limited floor time on this charade rather than taking up the issues that the American people urgently need this Congress to act upon.

These include: fixing our broken immigration system; increasing the minimum wage; strengthening our Nation's economic recovery; creating more jobs; extending unemployment insurance; and helping students struggling with overwhelming educational loan debt, which now exceeds one trillion dollars.

These are real issues that affect real people across America. This is where we should be focusing our resources.

Accordingly, I urge my colleagues to reject this ill-conceived measure.

Mr. GOODLATTE. Mr. Speaker, at this time, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. POE), a member of the Judiciary Committee.

Mr. POE of Texas. Mr. Speaker, I thank the gentleman for yielding.

This is about real people. One of those is my friend and constituent down in Houston, Texas, by the name of Catherine Engelbrecht. She is the founder of True the Vote and King Street Patriots in Houston, Texas, and she became intimidated and harassed by our very own government, all because she dared to speak her mind and engage in politics, a right that she is guaranteed under the Constitution.

□ 1745

It all began when Catherine Engelbrecht, a businesswoman, applied for nonprofit status in 2010 for True the Vote, which is a voter integrity group, and King Street Patriots; and so began the tidal wave of government inquiries and harassment.

She said it best in her testimony before Congress:

We applied for nonprofit status in 2010. Since then, the IRS has run us through a gauntlet of analysts and hundreds of questions over and over and over again. They've requested to see each and every tweet I've ever tweeted and each and every Facebook post I've ever posted. They've asked to know every place I've ever spoken since our inception, who was in the audience, and everywhere I intend to speak in the future.

This is our government—our government oppressing someone—at its worst.

There is even more. We have learned that the IRS even asked her group and others for their donor lists. This level of detail goes well beyond the business of the IRS.

It didn't stop there. All of a sudden, the Federal Government's snooping included six visits by the FBI, where they would sit in the auditoriums when she was speaking.

Two of those visits, apparently, were by the terrorist inspection—or investigation—division of the FBI. They had numerous and multiple unannounced visits from OSHA, from the ATF, and even from the Texas equivalent of the EPA.

Now, was this just a coincidence that all of these groups were investigating True the Vote and also investigating King Street Patriots? Or was it collusion?

We really don't know. Unfortunately, our Justice Department has lost credibility with the American public on investigating the IRS. We need things to be right, and things need to look right. We need to have a special counsel.

I would like to conclude with a statement that was made during the Abramoff investigation by Senators in 2006 about having a special counsel:

The highly political context of the allegations and charges may lead some to surmise that political influence may compromise the investigation . . . because this investigation is vital to restoring the public's faith in its government. Any appearance of bias, special favor, or political consideration would be a further blow to democracy. The appointment of a special counsel would ensure that the investigation and the prosecution will proceed without fear or favor and provide the public with full confidence that no one is above the law.

Signed, Barack Obama, 2006.

And that's just the way it is.

The SPEAKER pro tempore. The gentleman from Virginia has 11½ minutes remaining, and the gentlewoman from Texas has 11½ minutes remaining.

Ms. JACKSON LEE. Mr. Speaker, it is my pleasure to yield 1½ minutes to the gentlelady from New Mexico, Congresswoman MICHELLE LUJAN GRISHAM, a former official of the New Mexico State Government.

Ms. MICHELLE LUJAN GRISHAM of New Mexico. Thank you to my colleague.

Mr. Speaker, Federal law clearly states that tax-exempt social welfare groups must exclusively promote social welfare, and yet the IRS continues to allow these groups to engage in partisan political activity, instead of in their social welfare missions.

This has allowed social welfare nonprofits to spend over a quarter of a billion dollars on partisan political activities while keeping their donors secret. Congress has known about this issue for years, and it has done absolutely nothing.

Mr. Speaker, I came to Congress to solve problems on behalf of the American people, and this resolution does absolutely nothing to solve the underlying problem that we have identified at the IRS.

As long as Congress continues to ignore the fact that social welfare organizations are actively engaged in political activity, social welfare groups will continue spending hundreds of millions of dollars on partisan political campaign activities in direct contradiction to current Federal law and congressional intent.

So I urge my colleagues to vote against this very partisan resolution, as it doesn't solve any underlying problems, and, instead, pass legislation that enforces Federal law and that prohibits tax-exempt social welfare groups from engaging in partisan political activity.

Mr. GOODLATTE. Mr. Speaker, it is now my pleasure to yield 5 minutes to the gentleman from Ohio (Mr. JORDAN), a member of the Judiciary Committee and the author of this resolution.

Mr. JORDAN. I thank the chairman of the Judiciary Committee for yielding and for all of his good work.

Mr. Speaker, the gentlelady from Texas said in her opening statement that there has been no conclusion to the investigation. Yes, there has, and Ms. Lerner knows it.

Why do you think Ms. Lerner is willing to sit down with the Justice Department and answer their questions? She knows the fix is in. She knows it has already been prejudged and decided.

When the Department of Justice leaks to The Wall Street Journal that no one is going to be referred for prosecution, she knows she is just fine. The investigation is over. They are not doing it.

When the President, who is the highest elected official in this land, goes on national television and says there is nothing there, not even a smidgen, Ms. Lerner knows the fix is in.

Let's review the facts with a quick timeline. On May 10 of last year, Ms. Lerner goes in front of a bar association group here in town and, with a planted question, tells that group and tells the whole country that conservative groups were targeted for exercising their First Amendment free speech rights.

She did that before the inspector general's report was made public. It is unprecedented what she did, not only in her actions, but in her spilling the beans before the report was issued.

On May 13, we get the report from the inspector general that says, in fact, the targeting of conservative groups did take place at the IRS.

On May 14 of last year, the Attorney General launches a criminal investigation and says that what took place was outrageous and unacceptable, and the President of the United States says that what took place was inexcusable.

In June of last year, in the Judiciary Committee, we had then-FBI Director Mueller in front of the committee, and we asked him three simple questions: Who is the lead agent? How many agents have you assigned to the case? Have you talked to any of the victims?

This was a month into this. This was the biggest story in the country at the time, and the FBI Director's response was: I don't know. I don't know. I don't know.

There were seven written inquiries to Justice, asking: Can you tell us some basics about the investigation? Who is, in fact, leading it? Is it truly Barbara Bosserman, as we believe?

Everyone tells us—the witnesses we have interviewed: she is leading the investigation.

How many agents have you assigned? There were seven different inquiries with no responses from the Department of Justice.

On January 13 of this year, as I said earlier, the FBI leaks to The Wall Street Journal that no one is going to be referred for prosecution.

In February, the President says no corruption, not even a smidgen; then we learned Barbara Bosserman, a maxed-out contributor to the President's campaign, was leading the investigation.

Now, take that fact pattern, and apply it to the elements that the Attorney General looks at when you are deciding if you are going to have a special prosecutor. The chairman pointed out, in his opening statement, three elements the Code of Federal Regulations requires for the AG to appoint a special counsel.

It is when he determines these three things:

One, that a criminal investigation of a person or of a matter is warranted; of course, it is warranted. The AG already said it was. This is a big matter. This is a violation of people's First Amendment rights, and the Ways and Means Committee has already said Ms. Bosserman should be referred for prosecution.

The second element, that the investigation by the United States Attorneys' Office or by the litigating division of the Department of Justice would present a conflict of interest for the Department; if we don't have a conflict of interest here, I don't know where we do.

The President has prejudged the outcome, the FBI has leaked to The Wall Street Journal that no one is going to be prosecuted, prejudging the outcome, and the lead investigator is a maxed-out contributor to the DNC and to the President's campaign.

Finally, the third element, that it would be in the public interest to appoint an outside special counsel; frankly, I would think the Attorney General would want this.

There are all kinds of Americans who think this thing is not being done in an impartial and fair manner. I would think the Attorney General would want to pick someone who is above reproach, that he would want to pick someone whom everyone agrees is going to do a fair job.

Why have this cloud hanging over the investigation that the person leading it gave $6,750 to the President's campaign? That is all this asks.

This should be something that the administration should want to do because it clears up, in people's minds all across this country, that we are going to get to the truth and that we are going to have a real investigation.

Never forget what took place here. This is so important. People's most fundamental right—your right to speak out and the First Amendment right to speak out against your government—was targeted.

That is why we need to get to the truth, and that is why we need a special counsel who will do a real investigation.

Ms. JACKSON LEE. Mr. Speaker, I yield myself such time as I may consume.

I think it is important to state that one of the provisions that is not in the regulation for establishing a special counsel is that it is a ''get you'' procedure. It is not a ''got you'' procedure. It follows an orderly process of which the Department of Justice is engaged.

I would like to introduce into the RECORD a letter dated February 3, 2014, that indicates that the Justice Department's lawyer who has been charged with leading the investigation is not leading the investigation. He is part of a team.

OFFICE OF THE
DEPUTY ATTORNEY GENERAL,
*Washington, DC, February 3, 2014.*

Hon. JIM JORDAN,
*Chairman, Subcommittee on Economic Growth, Job Creation and Regulatory Affairs, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.*

DEAR CHAIRMAN JORDAN: This responds to your letter to an attorney in the Civil Rights Division, dated January 31, 2014, again requesting her testimony at a Subcommittee hearing on February 6, 2014, regarding the Department of Justice's ongoing criminal investigation into the Internal Revenue Service's treatment of groups applying for tax exempt status. To reiterate, consistent with longstanding Department policy, no Department representative will be in a position to provide testimony about this ongoing law enforcement matter.

As a preliminary matter, we disagree with your allegation that because of the attorney's engagement in lawful political activity, she has a conflict of interest regarding the investigation. Your letter of January 28, 2014, selectively quoted the Department regulation concerning the disqualification of employees from investigations based on personal or political relationships, and alleged that ''at the very least, [the attorney's] participation in the investigation runs afoul of this regulation.'' A careful review of 28 C.F.R. 45.2, however, shows that this is not true. That regulation provides that an employee should not participate in an investigation if he or she has ''a personal or political relationship'' with a person or organization substantially involved in the conduct being investigated or who has a specific and substantial interest in the investigation's outcome. The regulation defines a ''political relationship'' as ''close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof,'' and defines ''personal relationship'' as a ''close and substantial connection of the type normally viewed as likely to induce partiality'' and states that employees are presumed to have a personal relationship with spouses, parents, children, and siblings, and that other relationships must be judged on an individual basis. Accordingly, consistent with this regulation, the attorney whose integrity you have unfairly questioned has neither a political nor personal relationship that disqualifies her from the investigation. We also note again that, contrary to the assertion in your letter of January 28, 2014, this attorney was not assigned to lead the investigation, but rather is a member of a team that includes representatives of the Criminal Division, the Civil Rights Division, the Federal Bureau of Investigation, and the Treasury Inspector General for Tax Administration.

We agree with your view that ''[t]he American people deserve to have complete confidence that the Administration is conducting through and unbiased investigation.'' Accordingly, it is imperative that we avoid actions—such as testifying before Congress about this pending criminal investigation—that could give rise to a perception that the criminal investigation is subject to undue influence by elected officials. We reiterate that consistent with longstanding policy, in order to protect the integrity or our investigation, we are not in a position to provide you with any non-public information about this ongoing matter. This policy is intended to protect the effectiveness and integrity of the criminal justice process, as well as the privacy interests of third parties. It is neither new nor partisan, but rather based upon longstanding views of Department officials, both Democrat and Republican alike. While we respect the important role of congressional oversight, we believe that our provision of the testimony you have requested would be inconsistent with our commitment to principles of justice and the independence of our law enforcement efforts.

As the Attorney General stated in his testimony before the Senate Judiciary Committee on January 29, 2014, ''[t]he men and women of the Justice Department have for time immemorial put aside whatever their political leanings are and conducted investigations in a way that relies only on facts and the law,'' and we do not ''have any basis to believe that the people who are engaged in this investigation are doing so in a way other than investigations are normally done—that is, by looking at the facts, applying the law to those facts and reaching the appropriate conclusions.'' We request that you allow the Department employees responsible for this investigation to conduct it without demands for disclosures or other interference that would be inconsistent with their commitment to the integrity of the criminal justice process. We appreciate your interest in this investigation and, as the Attorney General has explained, we will be in a better position to provide Congress with information about our decisions in this matter when it is concluded.

Sincerely,

JAMES M. COLE,
*Deputy Attorney General.*

Ms. JACKSON LEE. Mr. Speaker, it is my privilege to yield 3 minutes to the gentleman from Florida (Mr. DEUTCH), a member of the House Judiciary Committee.

Mr. DEUTCH. I thank my friend, the gentlelady from Texas.

Mr. Speaker, we have learned a great deal, since the allegations surfaced, that IRS officials discriminated against political-leaning groups that were seeking tax-exempt 501(c)(4) status. I joined with many of my Republican colleagues in condemning the notion that politics in any way influenced the behavior of the IRS.

We learned that the IRS kept a list of key words that triggered extra review, a misguided practice that we are grateful has since stopped. We also learned that the IRS targeted more liberal-leaning groups than conservative ones, meaning there was no conservative witch-hunt.

What my colleagues on the other side of the aisle have apparently failed to learn, however, is that the clear solution to this problem is to get the IRS out of the business of evaluating political conduct.

I wholeheartedly agree with my colleagues that the IRS has no business meddling in our elections, but we don't need a special counsel to make this stop.

Applications for 501(c)(4) tax-exempt status exploded after the Citizens United decision because special interests found a new way to secretly funnel money into our elections. Let me tell you how it works.

Because these groups aren't required to disclose their donors, wealthy special interests that are bent on influencing the political process for their benefit anonymously give to the 501(c)(4). The 501(c)(4) then funnels the money to the super-PAC; and, voila, there are millions of secret dollars influencing our elections.

We ought to be working together in a bipartisan way to get secret money out of our elections. I asked the Treasury Department to review the murky regulations on the books, to revise the rules to restore integrity to 501(c)(4) status and to ensure that taxpayers are never again forced to subsidize blatant political behavior.

I would have hoped that my colleagues in the majority would have joined me in that effort. Instead, Republican leaders responded by attempting to block Treasury from fixing these broken rules and from forcing these secret givers to tell us who they are and what they want from this Congress.

I am afraid there is only one explanation for this latest partisan resolution. I hope I am wrong. I hope I am wrong in that my Republican colleagues don't actually want to protect secret money in our elections. I hope I am wrong in that the GOP does not want to protect the billionaires and the corporations that want to conceal themselves from the American people and believe that they have the right to funnel millions of dollars through 501(c)(4)'s into super-PACs in order to corrupt our elections.

I ask my colleagues to prove me wrong. Prove me wrong by working in a bipartisan way to protect the American people from helping sham special interest groups influence elections on the taxpayers' dime. Let's bring transparency and accountability back to our elections. Reject this sham resolution, and prove me wrong.

Mr. GOODLATTE. Mr. Speaker, at this time, it is my pleasure to yield 3 minutes to the gentleman from Florida (Mr. DESANTIS), a member of the Judiciary Committee.

Mr. DESANTIS. Mr. Speaker, a year ago, when news broke that the IRS had been targeting Americans based on their political beliefs, the President of the United States said that it was outrageous. He said that: we demand full accountability.

Attorney General Eric Holder said that it was outrageous and unacceptable. Everybody agreed this was serious. Everybody agreed that this required a serious investigation; yet, as we sit here a year later, it is clear that we have not seen the action that we were promised.

First of all, the Department of Justice had been discussing with the IRS, as late as May of 2013, the possibility that some of these groups that had been targeted could end up being prosecuted criminally. The DOJ actually had a role with the IRS.

□ 1800

We know that the investigation is being led by somebody who is a big contributor to President Obama's reelection campaign.

Of course, at the Super Bowl earlier this year, the President said the investigation was essentially over. Nothing happened, he said. No, not even a smidgeon of impropriety. And, of course, the Department of Justice has leaked to the media that no prosecutions will in fact occur.

And when the President said as a senator in 2006 that the highly political context of the allegations and charges may lead some to surmise that political influence may compromise the investigation because this investigation is vital to restoring the public's faith in government, any appearance of bias, special favor, or political consideration would be a further blow to our democracy, that basically applies to what we have now.

The American people don't want their government targeting them and targeting their First Amendment rights. If that is done and power is abused, they need to be held accountable.

But when this is all said and done, I think the American people want to have confidence that this was looked at in a fair manner. And when you have all these political considerations swirling around, I don't think many Americans have confidence that the Department of Justice is doing this in a way that is not conflicted.

And, don't forget, the entire context of this whole scandal was targeting essentially the President's political opposition in the run-up to his reelection campaign.

So I am proud to stand here supporting this resolution. I think voting ''yes'' on it is voting ''yes'' for transparency and accountability in government.

The SPEAKER pro tempore. The gentleman from Virginia has 4 minutes remaining. The gentlelady from Texas has 6½ minutes remaining.

Ms. JACKSON LEE. Mr. Speaker, I yield myself such time as I may consume.

Let me just say very quickly that the entire premise of the gentleman's comments have been proven absolutely wrong. Thirty-nine witnesses never said one moment that the Presidential election of 2012 was in any way involved in this particular issue.

In addition, this is a bipartisan investigation because we have the Treasury Inspector General for Tax Administration appointed by a Republican and who is a Republican working with the Department of Justice.

I yield 5 minutes to the gentleman from Michigan (Mr. LEVIN), the distinguished ranking member of the Ways and Means Committee, who has had a detailed investigation and oversight from his committee on this issue.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, let me sum up what this is really all about.

This hallowed institution must not be turned into a campaign arm of either political party. That is what the House Republicans are exactly doing here.

It has been a year since multiple committee investigations began into the IRS handling of 501(c)(4) organization applications, and Republicans are no closer to finding evidence to back up their baseless allegations of a ''White House enemies list,'' as they said, or a ''White House culture of coverup,'' as a Republican said on day one.

So here is what has been going on.

More than 250 employees at the IRS have worked more than 100,000 hours and sent nearly 700,000 pages of documents to Ways and Means in response to Republican requests. More than 60 interviews have been conducted. Also, $14 million in taxpayer money has been spent by the IRS responding to congressional investigations.

And here is what we know.

Documents show that the IRS used inappropriate criteria to treat progressive groups as they did for conservative groups. There was never any evidence of White House involvement. Nada.

There was never any evidence of political motivation. In fact, before the flawed audit was published last May, the IG's head of investigations reviewed 5,500 pages of documents and determined that there was ''no indication that pulling these selected applications was politically motivated.'' Instead, the head of investigations said the cases were consolidated due to ''unclear processing directions.''

Republicans have indicated that they think this action today is necessary because the Department of Justice did not react quickly enough to the referral of information from Ways and Means on Lois Lerner that was sent last month. There is a letter from the Department of Justice saying that they have received this information and have referred it to those in charge of the IRS investigation at Justice.

The Republicans say they want an independent investigation, but what they really want to do is to interrupt the investigation going on and preempt it with their own political theater.

Indeed, talking about fixation, their political fixation, I say this not only to my colleagues but to every one of our citizens: this is the House of Representatives, not a political circus.

I ask my colleagues to see this for what it is worth and vote ''no'' on the resolution.

Ms. JACKSON LEE. Mr. Speaker, could you give us how much time is remaining on both sides, please?

The SPEAKER pro tempore. The gentlewoman from Texas has 2½ minutes remaining. The gentleman from Virginia has 4 minutes remaining.

Ms. JACKSON LEE. I am sure my kind friend from Virginia will yield me some additional time, but I will use what I have.

Let me try to bring us together, Mr. Speaker.

Yesterday, in the Rules Committee, there was a collegial moment when we said, Let's clarify the law.

If there is anything the Democrats and Republicans agree with, it is that ineptness, wrongness, misdirection was obviously evident in the equal targeting of all groups—groups that had the name ''progressive,'' ''Occupy,'' and others.

As Members of Congress, none of us want the citizens of the United States to be in any way intimidated by a government that is here to help them. And I stand here saying we can come together to ensure that all of our government agencies work well.

The President made the point in May of 2013 that if in fact the IRS personnel engaged in the kind of practices that have been reported on and were intentionally targeting conservative groups—and it has been noted by the witnesses in the Oversight Committee that they were targeting other groups as well—Occupy, progressive—then that is outrageous, and there is no place for it.

There is no conflict in this.

What we are now debating is a fallacy of the appointment of a special counsel and the $14 million and the 700,000 pages of unredacted documents, more than 250 people who have been responding to congressional inquiries.

I will include in the RECORD an April 23, 2014, letter to Congressman SANDER LEVIN that talks about the litany of requests that the IRS has been requested to do.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
*Washington, DC, April 23, 2014.*

Hon. SANDER LEVIN,
*Ranking Member, Committee on Ways and Means, House of Representatives, Washington, DC.*

DEAR MR. LEVIN: I am responding to your request for documents relating to tax exempt advocacy organizations.

Since May of last year, the Internal Revenue Service has been collecting, reviewing, and producing materials in response to a number of Congressional requests, including those from you and your Committee. In order to provide you and your staff our full cooperation in addressing this matter, more than 250 people, including attorneys, litigation support staff, and other IRS personnel have worked more than 100,000 hours.

With this production, we have produced, including special requests from individual committees, nearly 700,000 pages of unredacted documents to the Senate Finance and House Ways and Means Committees, which are authorized to receive I.R.C. §6103 information. We also have produced, including special requests from individual committees, over 530,000 pages, redacted as required by section 6103, to the Senate Permanent Subcommittee on Investigations and the House Government Reform and Oversight Committee. Our productions have prioritized the custodians, subject matters, and search terms when and as requested.

We have responded to more than fifty Congressional letters and hundreds of informal Congressional requests.

We have facilitated more than sixty transcribed interviews by Congressional staff of current and former IRS employees.

IRS personnel have answered questions related to the subjects of these investigations at 18 Congressional hearings.

The IRS document production was collected from IRS hard copy and electronic files, including documents from 83 individual custodians.

This production consists of documents from multiple custodians; the materials are Bates-stamped IRSR0000617700—IRSR0000645643 and IRSR0000649674—IRSR0000650117.

Additionally, we are reproducing documents that were previously produced with non-6103 redactions, which have been removed in this production. These documents are Bates-stamped as follows:

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| IRSR0000574027 | IRSR0000574029 |
| IRSR0000574572 | IRSR0000574575 |
| IRSR0000574627 | IRSR0000574630 |
| IRSR0000574641 | IRSR0000574643 |
| IRSR0000574654 | IRSR0000574657 |
| IRSR0000574732 | IRSR0000574734 |
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| IRSR0000575418 | IRSR0000575424 |
| IRSR0000579620 | IRSR0000579623 |
| IRSR0000581378 | IRSR0000581381 |
| IRSR0000581459 | IRSR0000581462 |
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| IR5R0000593400 | IRSR0000593401 |

For your convenience, we are also providing this set of documents in PDF.

If you have any questions, please contact me or have your staff contact me.

Sincerely,

LEONARD OURSLER.
*National Director for Legislative Affairs.*

Ms. JACKSON LEE. I also will include in the RECORD a May 7, 2014, letter that emphasizes that this is a bipartisan investigation. The inspector general of the Tax Administration, appointed by George Bush, is working with the U.S. Department of Justice. It negates very visibly any suggestion of conflict of interest or that this is a biased investigation.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
*Washington, DC, May 7, 2014.*

Hon. DAVE CAMP,
*Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This responds to your letter of April 9, 2014, providing the Department of Justice (the Department) information and documents that the Committee on Ways and Means (the Committee) has obtained in the course of its ongoing investigation into allegations of targeting by the Internal Revenue Service of organizations based on their political views.

As you may know, the Department has an ongoing criminal investigation into the IRS's treatment of groups applying for tax-exempt status, which is being conducted jointly with the Treasury Inspector General for Tax Administration (TIGTA). We appreciate your concern and will carefully consider the Committee's findings as part of our investigation into these allegations.

We hope that this information is helpful. Please do not hesitate to contact this office if we may provide assistance in this or any other matter.

Sincerely,

PETER J. KADZIK,
*Principal Deputy Assistant Attorney General.*

Ms. JACKSON LEE. In addition, I think it is very important to note that we are the Congress and the administration. But I take great issue in suggesting the lack of integrity of our employees in the Federal Government and that they would do anything to undermine an official investigation.

The letter that we received on February 23, 2014, debunks any personal relationship of this single attorney in a single office with any one political candidate from a personal perspective.

A donation, yes. But are you suggesting that that individual has no private right to enterprise their free speech?

There is no close identification with an elected official, no relationship with families and children.

And so, Mr. Speaker, I ask my colleagues to vote against this resolution that is not grounded in any substance, does not meet the standard of 600.1, 600.2, and finds no conflict. This is no investigation that is over. There is no suggestion that they are not, in essence, investigating all parties, and that there will not be a conclusion that will ultimately make a decision that is unbiased as to whether or not persons will be criminally prosecuted.

And so this resolution does not meet the standard. It is, again, taking up space on the floor. I would like to see unemployment insurance and immigration reform here. I would like to help the American people and help job legislation to make a difference here in the United States Congress.

I have other documents I will add into the RECORD, Mr. Speaker. These letters are experts saying there is no conflict of interest.

COLUMBIA UNIVERSITY LAW SCHOOL,
*New York, NY, February 5, 2014.*

Re Prosecutorial Disqualification

Hon. DONALD K. SHERMAN,
*Counsel, Committee on Oversight and Government Reform, House of Representatives, Washington, DC.*

DEAR MR. SHERMAN: Although I lack deep familiarity with the matter you are inquiring about, I can offer some brief thoughts on the questions you have posed to me, specifically:

Do past political contributions by a career prosecutor to a Presidential campaign or political party create a conflict of interest in a multi-agency investigation regarding allegations of political targeting by federal agency officials?

Do past political contributions by a career prosecutor to a Presidential campaign or political party create grounds for disqualification arising from a personal or ''political relationship'' under 28 C.F.R. §45.2 in a multi-agency investigation regarding allegations of misconduct of federal agency officials?

Is it appropriate for Department of Justice leadership to check the political donations made by a career prosecutor before assigning that person to join a multi-agency investigation involving victims claiming that they were treated unfairly because of their political beliefs?

For background: I am currently the Paul J. Kellner Professor of Law at Columbia Law School. For the past twenty years, my scholarship has focused on criminal procedure and federal criminal enforcement issues. I teach courses in Criminal Procedure, Evidence, Federal Criminal Law, and a Sentencing seminar. Before entering academia, I served as an assistant U.S. Attorney in the Southern District of New York, and ultimately was the Chief Appellate Attorney in that Office. Since leaving government service in 1992, I have served as a consultant for various federal agencies, including the Justice Department's Office of the Inspector General, and I have been retained as defense counsel or a consultant in a number of criminal and civil matters.

You have posed these questions with respect to a specific Justice Department employee who, according to publically available FEC data, donated amounts totaling $4250 to political campaign funds related to the Democratic Party and Barack Obama in 2004, and $2000 to funds relating to President Obama in 2012. Any claim that these contributions, in of themselves, create a conflict of interest or should be cause for disqualification for a career prosecutor investigating allegations of political targeting in the Executive Branch strikes me as meritless.

28 CFR 45.2 is bars an employee from participating ''in a criminal investigation or prosecution if he has a personal or political relationship with:

(1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or

(2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

And it goes on to define a ''political relationship'' as

a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof. . . .

Simple past campaign contributions do not come close to meeting this standard. Indeed, were they to do so, the conflict concerns would extend as much to employees who had donated to the party out of office, since presumably that party would be gain from any findings of impropriety by the current Administration. It would similarly be highly inappropriate for Justice Department officials, in putting an investigative team together to inquire into the legal political contributions that line prosecutors have made in their private capacity. In my experience, one of the glories of the Justice Department—worthy of celebration, not undermining—is the non-partisan way in which line prosecutors have done their work as Administrations come and go. The last thing we want is to divide them into political affinity groups.

Very truly yours,

DANIEL RICHMAN.

---

FORDHAM UNIVERSITY SCHOOL OF LAW,
*New York, NY, February 4, 2014.*

c/o
DONALD K. SHERMAN,
*Counsel, Committee on Oversight and Government Reform, Washington, DC.*

Re ''The IRS Targeting Investigation''—Hearing scheduled for February 6, 2014

TO THE CHAIRMAN AND MEMBERS OF THE COMMITTEE: I understand that your Committee is considering how conflict of interest laws apply to federal prosecutors. Specifically, do career federal prosecutors who previously contributed to the presidential campaign or political party of the incumbent President have a conflict of interest that precludes them from investigating federal agency officials? I submit this letter to explain why this scenario does not comprise a conflict of interest under prevailing ethics standards and law.

INTRODUCTION

By way of introduction, I am a former federal prosecutor and, as a legal academic, have spent much of the past 27 years studying questions of legal, judicial, prosecutorial and government ethics.

I served as an Assistant U.S. Attorney in the Southern District of New York from 1983 to 1987, after serving as a judicial law clerk. I served under U.S. Attorney Rudolph W. Giuliani throughout my time in the U.S. Attorney's Office. Before leaving in 1987, I served as Deputy Chief Appellate Attorney and Chief Appellate Attorney in the Criminal Division. My responsibilities included advising other prosecutors on legal and ethical questions.

Since 1987, I have taught full-time at Fordham Law School, where I now direct the Stein Center for Law and Ethics. For the past 27 years, I have taught courses relating to legal ethics and criminal law and procedure, including a seminar on ''Ethics in Criminal Advocacy.'' As an academic, I have written more than 25 articles on prosecutors' ethics and I have spoken widely on this subject, including at programs of the U.S. Department of Justice, the National Association of Former United States Attorneys, the American Bar Association (ABA), and other national, state and local organizations and entities. I have also engaged in substantial professional service involving legal ethics generally and prosecutors' ethics particularly. Among other things, I have chaired the ABA Criminal Justice Section and that Section's ethics committee, chaired the New York State Bar Association's ethics committee, and served for more than a decade on the committee that drafts the national bar examination on lawyers' professional responsibility (the MPRE).

While teaching law full-time, I have also engaged in various part-time public service relating to issues of government integrity. I served as Associate Counsel in the Office of Independent Counsel Lawrence Walsh (the Iran/Contra prosecutor) and as a consultant to the N.Y.S. Commission on Government Integrity (under Fordham's then-Dean, John Feerick). In 1995, then-Mayor Giuliani appointed me to serve on the five-member New York City Conflicts of Interest Board, which interprets and enforces the city's conflicts of interest law for government officials and employees. I was subsequently reappointed and served on the Board until early 2005.

Finally, in light of the subject of this letter, I note that I am registered to vote as an ''independent.''

DISCUSSION

I understand that this Committee is considering the following three questions among others) on which I hope to be of assistance.

1. Do past political contributions by a career prosecutor to a Presidential campaign or political party create a conflict of interest in a multi-agency investigation regarding allegations of political targeting by federal agency officials?

As lawyers, federal prosecutors are governed by the professional conduct rules of the states in which they work. In most states, these rules are based on the ABA Model Rules of Professional Conduct. All state codes of professional conduct for lawyers include provisions on conflicts of interest. In general, the rules provide that a lawyer has a conflict of interest if there is a significant risk that the lawyer's representation will be materially limited by the lawyer's personal interest.

As ''ministers of justice,'' prosecutors are expected to conduct investigations and prosecutions without regard to partisan political considerations. Indeed, the ABA Standards governing prosecutors' conflicts of interest provide: ''A prosecutor should not permit his or her professional judgment or obligations to be affected by his or her own political . . . interests.'' One can envision situations in which prosecutors' political interests would significantly limit their ability to pursue justice evenhandedly, and in such situations, prosecutors would be obligated to step aside. An elected prosecutor's investigation of a campaign rival would surely be one such situation.

I understand that in an investigation of possible misconduct by public officials, the particular prosecutor's political affiliation or level of political engagement might seem to matter. A prosecutor who contributed financially to the winning side might be suspected of favoring officials in the incumbent administration or of harboring an interest in avoiding embarrassment to the administration. A prosecutor who contributed financially to the losing side might be suspected of bias against the incumbents or of desiring to embarrass them. Even a prosecutor who made no financial contribution but who voted for one side or the other might be suspected of bias or favoritism.

Under the prevailing legal and ethical understandings, however, this scenario does not constitute a conflict of interest. The relevant standards for prosecutors—e.g., the ABA rules and standards and the National District Attorneys Association standards—do not forbid prosecutors from making political contributions. Nothing in the rules or standards requires prosecutors who made contributions to recuse themselves from cases involving public officials. This is in contrast to rules of judicial conduct that forbid judges from making contributions to political organizations and candidates. Prosecutors are not held to the same level of neutrality and nonpartisanship as judges. As the Supreme Court has observed, ''the strict requirements of neutrality cannot be the same for . . . prosecutors as for judges.''

Likewise, judicial decisions do not support the premise that prosecutors who make campaign contributions have a conflict of interest in cases of political significance. In criminal cases, the question of whether a prosecutor has a conflict of interest may be raised by a criminal defendant or by an individual who is the subject of a criminal investigation. Additionally, in some jurisdictions, prosecutors who perceive that they have a conflict of interest may ask the court to appoint an independent prosecutor. Thus, courts have had occasion to issue opinions regarding whether a particular prosecutor must be disqualified, or an independent prosecutor appointed, because of an alleged conflict. Prosecutors who have prior lawyer-client relationships, or family or business relationships, with a defendant or potential defendant are ordinarily understood to have a significant personal interest that may impair their impartiality. But no court would seriously entertain a claim that the prosecutor should be disqualified from investigating or prosecuting officials of an executive-branch agency because the prosecutor previously made political donations supporting or opposing the incumbent president or the president's party.

2. Do past political contributions by a career prosecutor to a Presidential campaign or political party create grounds for disqualification arising from a personal or ''political relationship'' under 28 C.F.R. §45.2 in a multi-agency investigation regarding allegations of misconduct of federal agency officials?

Federal prosecutors are subject to 28 C.F.R. §45.2, which requires prosecutors to be disqualified from cases in which they have a personal or ''political relationship'' with the subject of the investigation or with another person or organization having a specific and substantial interest in the investigation or prosecution. The provision defines a disqualifying ''political relationship'' to mean ''a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof'' (emphasis added).

Section 45.2 plainly does not apply to a career prosecutor who contributed to the incumbent president's campaign or political party. The provision is very limited. It applies only to a prosecutor whose close identification with an official, candidate, party or organization arises from the prosecutor's prior service as a principal adviser to the official or candidate or as a principal official of the party or organization that is the subject of the investigation or otherwise an interested party. Few, if any, federal prosecutors fit into that category. A campaign contributor does not, because he or she is not ''a principal adviser'' or a ''principal official.''

That this federal regulation has a ''narrow definition of a disqualifying political conflict of interest'' was noted in In re: Independent Counsel Kenneth W. Starr, where the court of appeals refused to revive an ethics grievance, filed against Independent Counsel Kenneth Starr, maintaining that the Independent Counsel had a conflict of interest in the Whitewater investigation arising out of his political affiliation with the Republican Party. In a concurring opinion, Circuit

Judge Loken explained that ''it is not surprising that federal law does not restrict or disqualify prosecutors on the basis of vaguely defined political conflicts of interest,'' and that ''even a brief look at history will confirm [that] judicial reluctance to question a prosecutor's background is even more important'' in an investigation of government misconduct. That history includes the appointment of corruption investigators and prosecutors from ''highly partisan backgrounds and [with] strong personal political ambitions.'' Making a campaign contribution reflects a low level of political involvement by comparison.

3. Is it appropriate for Department of Justice leadership to check the political donations made by a career prosecutor before assigning that person to join a multi-agency investigation involving victims claiming that they were treated unfairly because of their political beliefs?

As discussed above, a career prosecutor assigned to investigate a federal official would not have a conflict of interest simply because the prosecutor contributed to one or the other party or to one or the other presidential candidate. I am unaware of any federal or state jurisdiction in which prosecutors investigating or prosecuting government corruption cases are limited to those who are so politically disengaged. Because political donations are not a relevant consideration in making assignments, it would not be appropriate for Department of Justice leadership to check career prosecutors' political donations before assigning them to an investigation.

There has never been a political-affiliation litmus test for prosecutors engaged in government corruption investigations or other investigations of government officials. Rather, it should be assumed that prosecutors, as professionals, will put their political preferences to the side, because their fundamental allegiance is to the rule of law and to pursuing justice.

Very truly yours,

BRUCE A. GREEN,
*Louis Stein Professor of Law.*

Ms. JACKSON LEE. Oppose this present resolution and let's move on to come together and effectively work on behalf of the American people.

I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in response to the gentlewoman from Texas and the gentleman from Michigan, who said that this hallowed institution should not be turned into a campaign arm of either political party, I totally agree with the gentleman's assertion. I also believe that he would agree with me that the Internal Revenue Service should not be turned into a political arm of any administration.

The IRS—the tax collectors—have the most unenviable job. And they are despised by most Americans coming to collect their taxes from them. To politicize that organization, to turn it into an organization that the American people mistrust, is an abuse.

The contention that the IRS targeted progressives is debunked by this staff report prepared by the House of Representatives Committee on Oversight and Government Reform dated April 7, 2014, just 1 month ago.

I will read from the conclusion of that report:

Evidence available to the committee contradicts Democrats' claims about bipartisan targeting. Although the IRS's BOLO list included entries for liberal-oriented groups, only Tea Party applicants received systematic scrutiny because of their political beliefs. Public and nonpublic analyses of IRS data show that the IRS routinely approved liberal applications while holding and scrutinizing conservative applications. Even training documents produced by the IRS indicate stark differences between liberal and conservative applications: ''progressive'' applications are not considered ''Tea Parties.'' These facts show one unyielding truth: Tea Party groups were targeted because of their political beliefs, liberal groups were not.

And from the executive summary:

For months, the administration and congressional Democrats have attempted to downplay the IRS's misconduct. First, the administration sought to minimize the fallout by preemptively acknowledging the misconduct in response to a planted question at an obscure Friday morning tax-law conference. When that strategy failed, the administration shifted to blaming ''rogue agents'' and ''line-level'' employees for the targeting. When those assertions proved false, congressional Democrats baselessly attacked the character and integrity of the inspector general. Their attempt to allege bipartisan targeting is just another effort to distract from the fact that the Obama IRS systematically targeted and delayed conservative tax-exempt applicants.

The gentleman from Michigan is right: this institution should not be used, nor the IRS, to benefit either political party. And that is why an independent, professional special counsel should be appointed immediately by the Attorney General. Because the three tests for that appointment have already been met.

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That is the reason why we are here today. A criminal investigation of a person or a matter is warranted. An investigation or prosecution of that person or matter by a United States Attorneys' Office or litigating division of the Department of Justice would prevent a conflict of interest for the department.

All of these false assertions made over and over and over again show there is a conflict in this investigation by this administration.

Third, under those circumstances, it would be in the public interest to appoint an outside special counsel to assume responsibility for the matter.

It is time for that outside special counsel to be appointed, to take the politics out of this, and to make sure that the American people's interest in having an Internal Revenue Service—the tax collectors of the country—not attempting to influence public policy, not taking ideological points of view in the enforcement of our tax law is not to take place.

The only way we can assure it is by having that special counsel appointed.

I urge my colleagues to support this resolution.

Mr. Speaker, I will insert an executive summary into the RECORD.

EXECUTIVE SUMMARY

In the immediate aftermath of Lois Lerner's public apology for the targeting of conservative tax-exempt applicants, President Obama and congressional Democrats quickly denounced the IRS misconduct. But later, some of the same voices that initially decried the targeting changed their tune. Less than a month after the wrongdoing was exposed, prominent Democrats declared the ''case is solved'' and, later, the whole incident to be a ''phony scandal.'' As recently as February 2014, the President explained away the targeting as the result of ''bone-headed'' decisions by employees of an IRS ''local office'' without ''even a smidgeon of corruption.''

To support this false narrative, the Administration and congressional Democrats have seized upon the notion that the IRS's targeting was not just limited to conservative applicants. Time and again, they have claimed that the IRS targeted liberal- and progressive-oriented groups as well—and that, therefore, there was no political animus to the IRS's actions. These Democratic claims are flat-out wrong and have no basis in any thorough examination of the facts. Yet, the Administration's chief defenders continue to make these assertions in a concerted effort to deflect and distract from the truth about the IRS's targeting of tax-exempt applicants.

The Committee's investigation demonstrates that the IRS engaged in disparate treatment of conservative-oriented tax-exempt applicants. Documents produced to the Committee show that initial applications transferred from Cincinnati to Washington were filed by Tea Party groups. Other documents and testimony show that the initial criteria used to identify and hold Tea Party applications captured conservative organizations. After the criteria were broadened in July 2012 to be cosmetically neutral, material provided to the Committee indicates that the IRS still intended to target only conservative applications.

A central plank in the Democratic argument is the claim that liberal-leaning groups were identified on versions of the IRS's ''Be on the Look Out'' (BOLO) lists. This claim ignores significant differences in the placement of the conservative and liberal entries on the BOLO lists and how the IRS used the BOLO lists in practice. The Democratic claims are further undercut by testimony from IRS employees who told the Committee that liberal groups were not subject to the same systematic scrutiny and delay as conservative organizations.

The IRS's independent watchdog, the Treasury Inspector General for Tax Administration (TIGTA), confirms that the IRS treated conservative applicants differently from liberal groups. The inspector general, J. Russell George, wrote that while TIGTA found indications that the IRS had improperly identified Tea Party groups, it ''did not find evidence that the criteria [Democrats] identified, labeled 'Progressives,' were used by the IRS to select potential political cases during the 2010 to 2012 timeframe we audited.'' He concluded that TIGTA ''found no indication in any of these other materials that 'Progressives' was a term used to refer cases for scrutiny for political campaign intervention.''

An analysis performed by the House Committee on Ways and Means buttresses the Committee's findings of disparate treatment. The Ways and Means Committee's review of the confidential tax-exempt applications proves that the IRS systematically targeted conservative organizations. Although a small number of progressive and liberal groups were caught up in the application backlog, the Ways and Means Committee's review shows that the backlog was 83 percent conservative and only 10 percent were liberal-oriented. Moreover, the IRS approved 70

percent of the liberal-leaning groups and only 45 percent of the conservative groups. The IRS approved every group with the word ''progressive'' in its name.

In addition, other publicly available information supports the analysis of the Ways and Means Committee. In September 2013, USA Today published an independent analysis of a list of about 160 applications in the IRS backlog. This analysis showed that 80 percent of the applications in the backlog were filed by conservative groups while less than seven percent were filed by liberal groups. A separate assessment from USA Today in May 2013 showed that for 27 months beginning in February 2010, the IRS did not approve a single tax-exempt application filed by a Tea Party group. During that same period, the IRS approved ''perhaps dozens of applications from similar liberal and progressive groups.''

The IRS, over many years, has undoubtedly scrutinized organizations that embrace different political views for varying reasons—in many cases, a just and neutral criteria may have been fairly utilized. This includes the time period when Tea Party organizations were systematically screened for enhanced and inappropriate scrutiny. But the concept of targeting, when defined as a systematic effort to select applicants for scrutiny simply because their applications reflected the organizations' political views, only applied to Tea Party and similar conservative organizations. While use of term ''targeting'' in the IRS scandal may not always follow this definition, the reality remains that there is simply no evidence that any liberal or progressive group received enhanced scrutiny because its application reflected the organization's political views.

For months, the Administration and congressional Democrats have attempted to downplay the IRS's misconduct. First, the Administration sought to minimize the fallout by preemptively acknowledging the misconduct in response to a planted question at an obscure Friday morning tax-law conference. When that strategy failed, the Administration shifted to blaming ''rogue agents'' and ''line-level'' employees for the targeting. When those assertions proved false, congressional Democrats baselessly attacked the character and integrity of the inspector general. Their attempt to allege bipartisan targeting is just another effort to distract from the fact that the Obama IRS systematically targeted and delayed conservative tax-exempt applicants.

CONCLUSION

Democrats in Congress and the Administration have perpetrated a myth that the IRS targeted both conservative and liberal tax-exempt applicants. The targeting is a ''phony scandal,'' they say, because the IRS did not just target Tea Party groups, but it targeted liberal and progressive groups as well. Month after month, in public hearings and televised interviews, Democrats have repeatedly claimed that progressive groups were scrutinized in the same manner as conservative groups. Because of this bipartisan targeting, they conclude, there is not a ''smidgeon of corruption'' at the IRS.

The problem with these assertions is that they are simply not accurate. The Committee's investigation shows that the IRS sought to identify and single out Tea Party applications. The facts bear this out. The initial ''test'' applications were filed by Tea Party groups. The initial screening criteria identified only Tea Party applications. The revised criteria still intended to identify Tea Party activities. The IRS's internal review revealed that a substantial majority of applications were conservative. In short, the IRS treated conservative tax-exempt applications in a manner distinct from other applications, including those filed by liberal groups.

Evidence available to the Committee contradicts Democrats' claims about bipartisan targeting. Although the IRS's BOLO list included entries for liberal-oriented groups, only Tea Party applicants received systematic scrutiny because of their political beliefs. Public and nonpublic analyses of IRS data show that the IRS routinely approved liberal applications while holding and scrutinizing conservative applications. Even training documents produced by the IRS indicate stark differences between liberal and conservative applications: '''progressive' applications are not considered ''Tea Parties.''' These facts show one unyielding truth: Tea Party groups were targeted because of their political beliefs, liberal groups were not.

Mr. GOODLATTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the resolution has expired.

Pursuant to House Resolution 568, the previous question is ordered on the resolution.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. JACKSON LEE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## RECOMMENDING THAT LOIS G. LERNER BE FOUND IN CONTEMPT OF CONGRESS

The SPEAKER pro tempore. Pursuant to clause 1(c) of rule XIX, further consideration of House Resolution 574 will now resume.

The Clerk read the title of the resolution.

MOTION TO REFER

Mr. CUMMINGS. Mr. Speaker, I have a motion at the desk.

The SPEAKER pro tempore. The Clerk will report the motion to refer.

The Clerk read as follows:

Mr. Cummings moves to refer the resolution H. Res. 574 to the Committee on Oversight and Government Reform with instructions that the Committee carry out the following:

(1) Conduct a bipartisan public hearing with testimony from legal and constitutional experts on whether Lois Lerner waived her Fifth Amendment rights when she professed her innocence during a hearing before the Committee on May 22, 2013, and whether Chairman Darrell E. Issa complied with the procedures required by the Constitution to hold Ms. Lerner in contempt.

(2) As part of that public hearing and in relationship to Ms. Lerner's profession of innocence in her testimony before the Committee, consider and release publicly the full transcripts of the following 39 interviews conducted by Committee staff of employees of the Internal Revenue Service and the Department of the Treasury, who discussed the actions that occurred within the Exempt Organizations Division that Ms. Lerner supervised and who identified no White House involvement or political motivation in the screening of tax exempt applicants, with appropriate redactions as determined by Chairman Darrell E. Issa in consultation with Ranking Minority Member Elijah E. Cummings:

(A) Screening Agent, Exempt Organizations, Determinations Unit, Internal Revenue Service (May 30, 2013).

(B) Screening Group Manager, Exempt Organizations, Determinations Unit, Internal Revenue Service (June 6, 2013).

(C) Determinations Specialist I, Exempt Organizations, Determinations Unit, Internal Revenue Service (May 31, 2013).

(D) Determinations Specialist II, Exempt Organizations, Determinations Unit, Internal Revenue Service (June 13, 2013).

(E) Determinations Specialist III, Exempt Organizations, Determinations Unit, Internal Revenue Service (June 19, 2013).

(F) Group Manager I, Exempt Organizations, Determinations Unit, Internal Revenue Service (June 4, 2013).

(G) Group Manager II, Exempt Organizations, Determinations Unit, Internal Revenue Service (June 12, 2013).

(H) Program Manager for Exempt Organizations, Determinations Unit, Internal Revenue Service (June 28, 2013).

(I) Tax Law Specialist I, Exempt Organizations, Technical Unit, Internal Revenue Service (July 10, 2013).

(J) Tax Law Specialist II, Exempt Organizations, Technical Unit, Internal Revenue Service (June 14, 2013).

(K) Tax Law Specialist III, Exempt Organizations, Technical Unit, Internal Revenue Service (July 2, 2013).

(L) Tax Law Specialist IV, Exempt Organizations, Technical Unit, Internal Revenue Service (July 31, 2013).

(M) Group Manager, Exempt Organizations, Technical Unit, Internal Revenue Service (June 21, 2013).

(N) Manager I, Exempt Organizations, Technical Unit, Internal Revenue Service (July 16, 2013).

(O) Manager II, Exempt Organizations, Technical Unit, Internal Revenue Service (July 11, 2013).

(P) Director of Rulings and Agreements, and Director of Employee Plans Division, Tax Exempt Government Entities, Internal Revenue Service (Aug. 21, 2013).

(Q) Director of Rulings and Agreements and Technical Unit Manager, Exempt Organizations, Internal Revenue Service (May 21, 2013).

(R) Technical Advisor to the Division Commissioner, Tax Exempt and Government Entities, Internal Revenue Service (July 23, 2013).

(S) Senior Technical Advisor to the Director of Exempt Organizations I, Tax Exempt Government Entities, Internal Revenue Service (Oct. 29, 2013).

(T) Senior Technical Advisor to the Director of Exempt Organizations II, Tax Exempt Government Entities, Internal Revenue Service (Sept. 5, 2013).

(U) Former Senior Technical Advisor to the Division Commissioner, Tax Exempt Government Entities, Internal Revenue Service (Oct. 8, 2013).

(V) Counsel I, Office of Chief Counsel, Tax Exempt Government Entities, Internal Revenue Service (Aug. 9, 2013).

(W) Counsel II, Office of Chief Counsel, Tax Exempt Government Entities, Internal Revenue Service (July 26, 2013).

(X) Senior Counsel, Office of Chief Counsel, Tax Exempt Government Entitles, Internal Revenue Service (July 12, 2013).

(Y) Deputy Division Counsel and Deputy Associate Chief Counsel, Office of Chief Counsel, Tax Exempt Government Entities, Internal Revenue Service (Aug. 23, 2013).

(Z) Division Counsel and Associate Chief Counsel, Office of Chief Counsel Tax Exempt Government Entities, Internal Revenue Service (Aug. 29, 2013).

(AA) Chief Counsel, Internal Revenue Service (Nov. 6, 2013).

(BB) Commissioner of the Tax-Exempt and Government Entities Division until December 2010, Internal Revenue Service (Sept. 23, 2013).

(CC) Commissioner of the Tax Exempt and Government Entities Division, December 2010–2013, Internal Revenue Service (Sept. 25, 2013).

(DD) Chief of Staff to the Commissioner, 2008–2012, Internal Revenue Service (Nov. 21, 2013).

(EE) Chief of Staff to the Commissioner, 2012–2013, Internal Revenue Service (Oct. 22, 2013).

(FF) Commissioner, 2008–2012, Internal Revenue Service (Dec, 4, 2013).

(GG) Deputy Commissioner of Services and Enforcement and Acting Commissioner, Internal Revenue Service (Nov. 13, 2013).

(HH) Attorney Advisor, Office of Tax Policy, Department of the Treasury (Feb. 3, 2014).

(II) Assistant Secretary for Tax Policy, Office of Tax Policy, Department of the Treasury (Jan. 16, 2014).

(JJ) Deputy Chief of Staff, Department of the Treasury (Feb. 11, 2014).

(KK) Chief of Staff, 2009–2013, Department of the Treasury (Feb. 4, 2014).

(LL) Chief of Staff, 2013, Department of the Treasury (Mar. 27, 2014).

(MM) General Counsel, Department of the Treasury (Feb. 26, 2014).

Mr. ISSA (during the reading). Mr. Speaker, I ask unanimous consent we dispense with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 568, the gentleman from Maryland (Mr. CUMMINGS) and the gentleman from California (Mr. ISSA) each will control 5 minutes.

The Chair recognizes the gentleman from Maryland.

Mr. CUMMINGS. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the motion to refer this matter back to committee.

Sixty years ago, the Supreme Court of the United States announced that the waiver of Fifth Amendment rights is ''not lightly to be inferred.''

That is exactly what happened when the Oversight Committee held a party line vote finding that Lois Lerner waived her Fifth Amendment privilege without holding even one hearing with one legal expert.

Experts who have reviewed the record before the committee conclude that Ms. Lerner did not waive her Fifth Amendment rights by declaring her innocence.

Now, more than 30 independent legal experts have also come forward to conclude that the chairman, Chairman ISSA, botched the contempt procedure when he abruptly ended our committee hearing and cut off my microphone before any Democratic members had a chance to utter a single syllable.

In other words, these experts say a judge will likely throw this case out of court.

Let me be clear that I am not defending Lois Lerner's mismanagement at the IRS; but as a Member of Congress, I have sworn, like my colleagues, to protect every citizen's rights under the Constitution of the United States of America, and I do not take that obligation lightly.

I believe that it is irresponsible to move forward today without ever having held a single hearing to hear from a single legal expert on this constitutional question.

I asked for this hearing more than 9 months ago, but my request was rejected, so this motion would require the Oversight Committee to do what it should have done a long time ago.

This motion also would direct the committee to release publicly the full transcripts from all the interviews of the IRS and Treasury employees that our committee staff conducted during the investigation.

These 39 transcripts show that there is no evidence of any White House involvement or any political motivation in the IRS' review of these tax-exempt applicants.

I remind the Speaker that these 39 witnesses are witnesses that were called by the majority. They are the ones who sat down with a bipartisan group of employees from the majority and the minority and went through the questioning.

Instead, these interviews show exactly how the employees in Cincinnati first developed the inappropriate criteria. They tell the story. They tell the story. They show how Lois Lerner failed to discover these criteria for more than a year and that, when she learned of them, she immediately ordered them to stop being used.

In June of last year, Chairman ISSA promised on national television that, at some point, he would release all of the transcripts. That needs to be done sooner, rather than later; but the chairman has repeatedly blocked my efforts to do so, even with his own redactions.

You may hear him say that he does not want to release transcripts now because they would provide a roadmap to our questions to future witnesses. I can understand that. I have made the same arguments myself on many occasions.

With all due respect, he crossed that bridge a long, long, long time ago. He has released selected excerpts from these transcripts on more than a dozen occasions, and he has allowed reporters to come into his committee offices to review some transcripts in their entirety.

It is time to put out the whole story, so the American people can read the facts for themselves, instead of just cherry-picking pieces leaked to further a political narrative.

I urge my colleagues to vote in favor of the motion.

Mr. Speaker, I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I rise in opposition to the motion and seek recognition in opposition.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. ISSA. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. JORDAN).

Mr. JORDAN. Mr. Speaker, I thank the gentleman for yielding.

Let me just, in response to the ranking member, it is not 39 interviews; it is 40. We just did another one yesterday, and that is going to lead to another one because we learned information in that interview yesterday.

The minority staff has released parts of every single one of those depositions. We will release them all when we hear from Lois Lerner. We want to get to the truth. That is what this resolution is all about.

Here is what we did learn yesterday. In the 40th, Richard Pilger, from the Department of Justice said this:

In the fall of 2010, at the direction of the chief of the Public Integrity Section, Jack Smith, I contacted Lois Lerner at the IRS.

So we know now Justice and the IRS were working together back in 2010, all the more reason why we need to hear from Lois Lerner; and the only way to make that happen, the only way to get to the truth is through the House of Representatives using every tool we have to compel Ms. Lerner to come talk to us because we know the fix is in with the Justice Department's investigation.

The fix is in. We all know that. The only route to the truth on something as fundamental as your free speech rights—First Amendment rights to exercise speech in a political fashion—is through the House of Representatives.

Mr. CUMMINGS. Mr. Speaker, I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, can I inquire as to whether the minority is prepared to close?

Mr. CUMMINGS. Yes, we are.

Mr. Speaker, about how much time do I have?

The SPEAKER pro tempore. The gentleman from Maryland has 25 seconds remaining. The gentleman from California has 4 minutes remaining.

Mr. ISSA. I am prepared to close.

Mr. CUMMINGS. I am prepared to close.

Again, Mr. Speaker, there is nothing to hide. We need to release the transcripts, and just as significantly, we need to hear from the experts.

This is a very, very serious issue, and I think that Members of Congress deserve to have the expertise presented before them, so that they can make a judgment. A lot of our Members are laypersons, and I think that it is only appropriate, under these circumstances, that they be given this opportunity.

I would ask the Members to vote in favor of my motion.

Mr. Speaker, I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

I will close in the calmest possible way that I can. For more than 3½ years, I have tried to get cooperation from the minority. For more than 3 years, I have tried to get the cooperation of the minority, and I haven't gotten it.

I get it on things which don't lead to the President or to a Cabinet officer or to an administrative branch. This leads to an administrative branch under the Secretary of the Treasury.

When the minority says that if you would just refer this back and we just have an opinion, quite frankly, they produced these opinions. They sought out 30 people to rubberstamp the same basic opinion again and again, many of whom provided nothing other than we agree. I didn't say anything about that during debate. That is their right.

The ranking member says if we will just release those 39 documents—if he wants to destroy this investigation, he can release them. If he wants to show a roadmap, he can release them. These are not documents that are exclusive. They are documents that either one of us could choose to release.

Good practice is, as we continue investigating—and the questions and the answers from witnesses not be in their entirety released to create a roadmap, that is practice of good counsel, and the ranking member himself said he would have done the same thing in some cases.

We only learned, a matter of days ago, that people working in the office of the President had withheld, until a court ordered them to release the documents, showing that they invented, out of thin air, a false narrative as to what happened at Benghazi and why, asserting a video that, in fact, was not supported by the facts; and for a long time, since September 11, 2012, we had been misled.

In an ongoing investigation, one in which they would have you believe that Lois Lerner would have testified if she just had a week more, they have had months to see if they could get Lois Lerner back to testify. Of course, they can't. She never intended to testify.

This has all been a game of catch me if you can; I say I will, I say I won't.

Our evidence, as the ranking member said, does not lead to the Oval Office. At this point, it leads to Lois Lerner. At this point, Lois Lerner attempted to assert the President's position as to Citizens United, using her power to stop these 501(c)(4)'s from their free speech.

□ 1830

At this point, the indication is that Lois Lerner says one thing to the Justice Department and a different thing to Congress.

So as we consider the simple issue of did she waive her rights or not and get it, as the gentleman from Vermont suggested, before a judge, that is all that is before us today. And the idea that we would release, in their entirety, those thousands of pages in order to give a road map to those yet to be deposed is wrong and inappropriate, and the gentleman knows it or he would have released them himself, which he has every right to do. But it would be irresponsible.

So I ask people to vote for contempt because it takes to an impartial Federal judge that question, a question already decided by our committee that had a vote, a question that will be voted the same way by the ranking member no matter how many experts are listened to. Go ahead and have the vote. Send it to a judge. Let a judge decide.

In the meantime, let's continue with the investigations as to the IRS' targeting of conservative groups, something that has been documented to have been inappropriate if you were conservative and not so much if you were moderate or liberal.

We have an individual who is at the center of it all. I have never alleged that it goes to the President. I have said that the Tea Party would clearly and fairly be described as enemies of or adverse to the President's policies, and I think that is pretty comfortable to understand. And they were targeted by somebody who politics with the President and who, quite frankly, was trying to overturn the Supreme Court decision in Citizens United in support of the President's position using her power.

And with that, I urge support and yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the motion to refer has expired.

Pursuant to House Resolution 568, the previous question is ordered on the motion to refer.

The question is on the motion to refer.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CUMMINGS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to refer will be followed by 5-minute votes on the motion to recommit, if offered, adoption of House Resolution 574, and adoption of House Resolution 565.

The vote was taken by electronic device, and there were—yeas 191, nays 224, not voting 16, as follows:

[Roll No. 202]

YEAS—191

Barber
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Dingell
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Meng
Michaud
Miller, George
Moore
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters (CA)
Peters (MI)
Peterson
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rahall
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NAYS—224

Aderholt
Amash
Amodei
Bachmann
Bachus
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bilirakis
Bishop (UT)
Black
Blackburn
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crenshaw
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (IA)
King (NY)
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica

Miller (FL)
Miller (MI)
Miller, Gary
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Olson
Palazzo
Paulsen
Pearce
Perry
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NOT VOTING—16

Bentivolio
Boustany
Clark (MA)
Coble
Crawford
Duffy
Eshoo
Griffin (AR)
Hinojosa
Hurt
Johnson (GA)
Kingston
Nunnelee
Pelosi
Rush
Schwartz

□ 1855

Messrs. YOUNG of Indiana, SESSIONS, TERRY, McKINLEY, CANTOR, and KELLY of Pennsylvania changed their vote from ''yea'' to ''nay.''

Ms. LORETTA SANCHEZ of California, Ms. BROWN of Florida, Messrs. THOMPSON of Mississippi, GRIJALVA, FARR, and BARBER changed their vote from ''nay'' to ''yea.''

So the motion to refer was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. HURT. Mr. Speaker, I was not present for rollcall vote No. 202, on referring the resolution on H. Res. 574 to Government Operations. Had I been present, I would have voted "nay."

Mr. BENTIVOLIO. Mr. Speaker, on rollcall No. 202 I was unavoidably detained. Had I been present, I would have voted "no."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CUMMINGS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 231, nays 187, not voting 13, as follows:

[Roll No. 203]

YEAS—231

Aderholt
Amash
Amodei
Bachmann
Bachus
Barber
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Byrne
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crenshaw
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (IA)
King (NY)
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mullin
Mulvaney
Murphy (FL)
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Olson
Palazzo
Paulsen
Pearce
Perry
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—187

Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Deutch
Dingell
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Holt
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Meng
Michaud
Miller, George
Moore
Moran
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters (CA)
Peters (MI)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—13

Bentivolio
Clark (MA)
Coble
Crawford
Duffy
Griffin (AR)
Hinojosa
Honda
Kingston
Nunnelee
Pelosi
Rush
Schwartz

□ 1902

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BENTIVOLIO. Mr. Speaker, on rollcall No. 203, I was unavoidably detained. Had I been present, I would have voted "yes."

## APPOINTMENT OF SPECIAL COUNSEL TO INVESTIGATE INTERNAL REVENUE SERVICE

The SPEAKER pro tempore. The unfinished business is the vote on the resolution (H. Res. 565) calling on Attorney General Eric H. Holder, Jr., to appoint a special counsel to investigate the targeting of conservative nonprofit groups by the Internal Revenue Service, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 250, nays 168, not voting 13, as follows:

[Roll No. 204]

YEAS—250

Aderholt
Amash
Amodei
Bachmann
Bachus
Barber
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bentivolio
Bera (CA)
Bilirakis
Bishop (UT)
Black
Blackburn
Boustany
Brady (TX)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Brownley (CA)
Buchanan
Bucshon
Burgess
Bustos
Byrne
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coffman

Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crenshaw
Culberson
Daines
Davis, Rodney
DelBene
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duncan (SC)
Duncan (TN)
Ellmers
Esty
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foster
Foxx
Franks (AZ)
Frelinghuysen
Gabbard
Garcia
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffith (VA)
Grimm
Guthrie
Hall
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jolly
Jones
Jordan
Joyce
Kelly (PA)
King (IA)
King (NY)
Kinzinger (IL)
Kline
Kuster
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
Lipinski
LoBiondo
Loebsack
Long
Lucas
Luetkemeyer
Lummis
Maffei
Marchant
Marino
Massie
Matheson
McAllister
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mullin
Mulvaney
Murphy (FL)
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Olson
Owens
Palazzo
Paulsen
Pearce
Perry
Peters (CA)
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Pompeo
Posey
Price (GA)
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Ruiz
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schneider
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Tsongas
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Walz
Weber (TX)
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IN)

NAYS—168

Bass
Beatty
Becerra
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu
Cicilline
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
Deutch
Dingell
Doggett
Doyle
Duckworth
Edwards
Ellison
Engel
Enyart
Eshoo
Farr
Fattah
Frankel (FL)
Fudge
Gallego
Garamendi
Grayson
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maloney, Carolyn
Maloney, Sean
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Meng
Michaud
Miller, George
Moore
Moran
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters (MI)
Pingree (ME)
Pocan
Polis
Price (NC)
Quigley
Rangel
Richmond
Roybal-Allard
Ruppersberger
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Wasserman Schultz
Waters
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—13

Clark (MA)
Coble
Crawford
Duffy
Gingrey (GA)
Griffin (AR)
Hinojosa
Kingston
Nunnelee
Pelosi
Rush
Schwartz
Webster (FL)

□ 1910

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DUFFY. Mr. Speaker, on Wednesday, May 7, 2014, I was at home in Wisconsin taking care of my amazing wife and our new baby daughter. Had I been present, I would have voted in the following ways: H. Res. 574—A Resolution Recommending that the House of Representatives find Lois G. Lerner, Former Director, Exempt Organizations, Internal Revenue Service, in contempt of Congress for refusal to comply with a subpoena duly issued by the Committee on Oversight and Government Reform "yea;" H.R. 863—To establish the Commission to Study the Potential Creation of a National Women's History Museum of 2013, as amended "yea;" H. Con. Res. 83—Authorizing the use of Emancipation Hall in the Capitol Visitor Center for an event to celebrate the birthday of King Kamehameha "yea;" H. Res. 565—Calling on Attorney General Eric H. Holder, Jr., to appoint a special counsel to investigate the targeting of conservative non-profit groups by the Internal Revenue Service "yea."

## CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE ACTIONS OF THE GOVERNMENT OF SYRIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 113–108)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

*To The Congress of the United States:*

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), provides for the automatic termination of a national emergency, unless, within 90 days prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency with respect to the actions of the Government of Syria declared in Executive Order 13338 of May 11, 2004—as modified in scope and relied upon for additional steps taken in Executive Order 13399 of April 25, 2006, Executive Order 13460 of February 13, 2008, Executive Order 13572 of April 29, 2011, Executive Order 13573 of May 18, 2011, Executive Order 13582 of August 17, 2011, Executive Order 13606 of April 22, 2012, and Executive Order 13608 of May 1, 2012—is to continue in effect beyond May 11, 2014.

The regime's brutal war on the Syrian people, who have been calling for freedom and a representative government, endangers not only the Syrian people themselves, but could yield greater instability throughout the region. The Syrian regime's actions and policies, including supporting terrorist organizations and impeding the Lebanese government's ability to function effectively, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue in effect the national emergency declared with respect to this threat and to maintain in force the sanctions to address this national emergency.

In addition, the United States condemns the Asad regime's use of brutal violence and human rights abuses and calls on the Asad regime to stop its violent war and allow a political transition in Syria that will forge a credible path to a future of greater freedom, democracy, opportunity, and justice.

The United States will consider changes in the composition, policies, and actions of the Government of Syria in determining whether to continue or terminate this national emergency in the future.

BARACK OBAMA.
THE WHITE HOUSE, *May 7, 2014.*

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## ELECTRIFY AFRICA ACT OF 2014

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2548) to establish a comprehensive United States Government policy to assist countries in sub-Saharan Africa to develop an appropriate mix of power solutions for more broadly distributed electricity access in order to

support poverty alleviation and drive economic growth, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2548

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Electrify Africa Act of 2014''.

**SEC. 2. PURPOSE.**

The purpose of this Act is to encourage the efforts of countries in sub-Saharan Africa to improve access to affordable and reliable electricity in Africa in order to unlock the potential for economic growth, job creation, food security, improved health, education and environmental outcomes, and poverty reduction.

**SEC. 3. FINDINGS.**

Congress finds that—

(1) 589,000,000 people in sub-Saharan Africa, or 68 percent of the population, did not have access to electricity, as of 2010;

(2) in sub-Saharan Africa, electricity services are highly unreliable and they are at least twice as expensive for those with electricity access compared to other emerging markets;

(3) lack of access to electricity services disproportionally affects women and girls, who often shoulder the burden of seeking sources of heat and light such as dung, wood or charcoal and are often more exposed to the associated negative health impacts. Women and girls also face an increased risk of assault from walking long distances to gather fuel sources;

(4) access to electricity creates opportunities, including entrepreneurship, for people to work their way out of poverty;

(5) a lack of electricity contributes to the high use of inefficient and often highly polluting fuel sources for indoor cooking, heating, and lighting that produce toxic fumes resulting in more than 3,000,000 annual premature deaths from respiratory disease, more annual deaths than from HIV/AIDS and malaria in sub-Saharan Africa;

(6) electricity access is crucial for the cold storage of vaccines and anti-retroviral and other lifesaving medical drugs, as well as the operation of modern lifesaving medical equipment;

(7) electricity access can be used to improve food security by enabling post-harvest processing, pumping, irrigation, dry grain storage, milling, refrigeration, and other uses;

(8) reliable electricity access can provide improved lighting options and information and communication technologies, including Internet access and mobile phone charging, that can greatly improve health, social, and education outcomes, as well as economic and commercial possibilities;

(9) sub-Saharan Africa's consumer base of nearly one billion people is rapidly growing and will create increasing demand for United States goods, services, and technologies, but the current electricity deficit in sub-Saharan Africa limits this demand by restricting economic growth on the continent;

(10) approximately 30 African countries face endemic power shortages, and nearly 70 percent of surveyed African businesses cite unreliable power as a major constraint to growth;

(11) the Millennium Challenge Corporation's work in the energy sector shows high projected economic rates of return that translate to sustainable economic growth and that the highest returns are projected when infrastructure improvements are coupled with significant legislative, regulatory, institutional, and policy reforms;

(12) in many countries, weak governance capacity, regulatory bottlenecks, legal constraints, and lack of transparency and accountability can stifle the ability of private investment to assist in the generation and distribution of electricity; and

(13) without new policies and more effective investments in electricity sector capacity to increase and expand electricity access in sub-Saharan Africa, over 70 percent of the rural population, and 48 percent of the total population, will potentially remain without access to electricity by 2030.

**SEC. 4. STATEMENT OF POLICY.**

Congress declares that it is the policy of the United States—

(1) in consultation with sub-Saharan African governments, to encourage the private sector, international community, African Regional Economic Communities, philanthropies, civil society, and other governments to promote—

(A) the installation of at least an additional 20,000 megawatts of electrical power in sub-Saharan Africa by 2020 to support poverty reduction, promote development outcomes, and drive economic growth;

(B) first-time direct access to electricity for at least 50,000,000 people in sub-Saharan Africa by 2020 in both urban and rural areas;

(C) efficient institutional platforms with accountable governance to provide electrical service to rural and underserved areas; and

(D) the necessary in-country legislative, regulatory and policy reforms to make such expansion of electricity access possible; and

(2) to encourage private sector and international support for construction of hydroelectric dams in sub-Saharan Africa that—

(A) offer low-cost clean energy consistent with—

(i) the national security interests of the United States; and

(ii) best international practices regarding social and environmental safeguards, including—

(I) engagement of local communities regarding the design, implementation, monitoring, and evaluation of such projects;

(II) the consideration of energy alternatives, including distributed renewable energy; and

(III) the development of appropriate mitigation measures; and

(B) support partner country efforts.

**SEC. 5. DEVELOPMENT OF A COMPREHENSIVE, MULTIYEAR STRATEGY.**

(a) STRATEGY.—The President shall establish a comprehensive, integrated, multiyear policy, partnership, and funding strategy to encourage countries in sub-Saharan Africa to develop an appropriate mix of power solutions, including renewable energy, to provide sufficient electricity access to people living in rural and urban areas in order to alleviate poverty and drive economic growth. Such strategy shall maintain sufficient flexibility and remain responsive to technological innovation in the power sector.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report setting forth the strategy described in subsection (a).

(2) REPORT CONTENTS.—The report required by paragraph (1) shall include a discussion of the elements described in paragraph (3), and should include a discussion of any additional elements relevant to the strategy described in subsection (a).

(3) REPORT ELEMENTS.—The elements referred to in paragraph (2) are the following:

(A) The general and specific objectives of the strategy described in subsection (a), the criteria for determining success of the strategy, a description of the manner in which the strategy will support partner country efforts to increase production and improve access to electricity, and criteria and indicators used to select partner countries for focused engagement on the power sector.

(B) Development, by partner country governments, of plans and regulations at the national, regional, and local level to increase power production, strengthen existing electrical transmission and distribution infrastructure, bolster accountable governance and oversight, and improve access to electricity.

(C) Administration plans to support partner country efforts to increase new access to electricity, including a description of how the strategy will address commercial and residential needs, as well as urban and rural access.

(D) Administration strategy to support partner country efforts to reduce government waste, fraud, and corruption, and improve existing power generation through improvement of existing transmission and distribution systems, as well as the use of a broad power mix, including renewable energy, and the use of a distributed generation model.

(E) Administration policy to support partner country efforts to attract private sector investment and public sector resources.

(F) A description of the Administration's strategy for the transfer of relevant technology, skills, and information to increase local participation in the long-term maintenance and management of the power sector to ensure investments are sustainable and transparent, including details of the programs to be undertaken to maximize United States contributions in the areas of technical assistance and training.

(G) An identification of the relevant executive branch agencies that will be involved in carrying out the strategy, the level and distribution of resources that will be dedicated on an annual basis among such agencies, timely and comprehensive publication of aid information and available transmission of resource data consistent with Administration commitments to implement the transparency measures specified in the International Aid Transparency Initiative by December 2015, the assignment of priorities to such agencies, a description of the role of each such agency, and the types of programs that each such agency will undertake.

(H) A description of the mechanisms that will be utilized by the Administration, including the International Aid Transparency Initiative, to coordinate the efforts of the relevant executive branch agencies in carrying out the strategy to avoid duplication of efforts, enhance coordination, and ensure that each agency undertakes programs primarily in those areas where each such agency has the greatest expertise, technical capabilities, and potential for success.

(I) A description of the mechanisms that will be established by the Administration for monitoring and evaluating the strategy and its implementation, including procedures for learning and sharing best practices among relevant executive branch agencies, as well as among participating countries, and for terminating unsuccessful programs.

(J) A description of the Administration's engagement plan, consistent with international best practices, to ensure local and affected communities are informed, consulted, and benefit from projects encouraged by the United States, as well as the environmental and social impacts of the projects.

(K) A description of the mechanisms that will be utilized to ensure greater coordination between the United States and foreign governments, international organizations,

African regional economic communities, international fora, the private sector, and civil society organizations.

(L) A description of how United States leadership will be used to enhance the overall international response to prioritizing electricity access for sub-Saharan Africa and to strengthen coordination among relevant international forums such as the Post-2015 Development Agenda and the G8 and G20, as well as the status of efforts to support reforms that are being undertaken by partner country governments.

(M) An outline of how the Administration intends to partner with foreign governments, the international community, and other public sector entities, civil society groups, and the private sector to assist sub-Saharan African countries to conduct comprehensive project feasibility studies and facilitate project development.

(N) A description of how the Administration intends to help facilitate transnational and regional power and electrification projects where appropriate.

**SEC. 6. USAID.**

(a) LOAN GUARANTEES.—It is the sense of Congress that in pursuing the policy goals described in section 4, the Administrator of USAID should identify and prioritize—

(1) loan guarantees to local sub-Saharan African financial institutions that would facilitate the involvement of such financial institutions in power projects in sub-Saharan Africa; and

(2) partnerships and grants for research, development, and deployment of technology that would increase access to electricity in sub-Saharan Africa.

(b) GRANTS.—It is the sense of Congress that the Administrator of USAID should consider providing grants to—

(1) support the development and implementation of national, regional, and local energy and electricity policy plans;

(2) expand distribution of electricity access to the poorest; and

(3) build a country's capacity to plan, monitor and regulate the energy and electricity sector.

(c) USAID DEFINED.—In this section, the term ''USAID'' means the United States Agency for International Development.

**SEC. 7. LEVERAGING INTERNATIONAL SUPPORT.**

In pursuing the policy goals described in section 4, the President should direct the United States' representatives to appropriate international bodies to use the influence of the United States, consistent with the broad development goals of the United States, to advocate that each such body—

(1) commit to significantly increase efforts to promote investment in well-designed power sector and electrification projects in sub-Saharan Africa that increase energy access, in partnership with the private sector and consistent with the host countries' absorptive capacity;

(2) address energy needs of individuals and communities where access to an electricity grid is impractical or cost-prohibitive;

(3) enhance coordination with the private sector in sub-Saharan Africa to increase access to electricity;

(4) provide technical assistance to the regulatory authorities of sub-Saharan African governments to remove unnecessary barriers to investment in otherwise commercially viable projects; and

(5) utilize clear, accountable, and metric-based targets to measure the effectiveness of such projects.

**SEC. 8. OVERSEAS PRIVATE INVESTMENT CORPORATION.**

(a) IN GENERAL.—The Overseas Private Investment Corporation should—

(1) in carrying out its programs and pursuing the policy goals described in section 4, place a priority on supporting investment in the electricity sector of sub-Saharan Africa, including renewable energy, and implement procedures for expedited review of and, where appropriate, approval of, applications by eligible investors for loans, loan guarantees, and insurance for such investments;

(2) support investments in projects and partner country strategies to the extent permitted by its authorities, policies, and programs, that will—

(A) maximize the number of people with new access to electricity to support economic development;

(B) improve the generation, transmission, and distribution of electricity;

(C) provide reliable and low-cost electricity, including renewable energy and on-grid, off-grid, and multi-grid solutions, to people living in rural and urban communities;

(D) consider energy needs of individuals where access to an electricity grid is impractical or cost-prohibitive;

(E) reduce transmission and distribution losses and improve end-use efficiency; and

(F) reduce energy-related impediments to business and investment opportunity and success;

(3) encourage locally-owned, micro, small- and medium-sized enterprises and cooperative service providers to participate in investment activities in sub-Saharan Africa; and

(4) publish in an accessible digital format measurable development impacts of its investments, including appropriate quantifiable metrics to measure energy access at the individual household, enterprise, and community level; and

(5) publish in an accessible digital format the amount, type, location, duration, and measurable results, with links to relevant reports and displays on an interactive map, where appropriate, of all OPIC investments and financings.

(b) AMENDMENTS.—Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended—

(1) in section 233 (22 U.S.C. 2193)—

(A) in subsection (b), by inserting after the sixth sentence the following new sentence: ''Of the eight such Directors, not more than five should be of the same political party.''; and

(B) by adding at the end the following new subsection:

''(e) INVESTMENT ADVISORY COUNCIL.—The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the use of an investment advisory council to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the investment advisory council shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The investment advisory council shall terminate on December 31, 2017.'';

(2) in section 234(c) (22 U.S.C. 2194(c)), by inserting ''eligible investors or'' after ''involve'';

(3) in section 235(a)(2) (22 U.S.C. 2195), by striking ''2007'' and inserting ''2017'';

(4) in section 237(d) (22 U.S.C. 2197(d))—

(A) in paragraph (2), by inserting '', systems infrastructure costs,'' after ''outside the Corporation''; and

(B) in paragraph (3), by inserting '', systems infrastructure costs,'' after ''project-specific transaction costs''; and

(5) by amending section 239(e) (22 U.S.C. 2199(e)) to read as follows:

''(e) INSPECTOR GENERAL.—The Board shall appoint and maintain an Inspector General in the Corporation, in accordance with the Inspector General Act of 1978 (5 U.S.C. App.).''.

(c) ANNUAL CONSUMER SATISFACTION SURVEY AND REPORT.—

(1) SURVEY.—

(A) IN GENERAL.—For each of calendar years 2014 through 2016, the Overseas Private Investment Corporation shall conduct a survey of private entities that sponsor or are involved in projects that are insured, reinsured, guaranteed, or financed by the Corporation regarding the level of satisfaction of such entities with the operations and procedures of the Corporation with respect to such projects.

(B) PRIORITY.—The survey shall be primarily focused on United States small businesses and businesses that sponsor or are involved in projects with a cost of less than $20,000,000 (as adjusted for inflation).

(2) REPORT.—

(A) IN GENERAL.—Not later than each of July 1, 2015, July 1, 2016, and July 1, 2017, the Corporation should submit to the congressional committees specified in subparagraph (C) a report on the results of the survey required under paragraph (1).

(B) MATTERS TO BE INCLUDED.—The report should include the Corporation's plans to revise its operations and procedures based on concerns raised in the results of the survey, if appropriate.

(C) FORM.—The report shall be submitted in unclassified form and shall not disclose any confidential business information.

(D) CONGRESSIONAL COMMITTEES SPECIFIED.—The congressional committees specified in this subparagraph are—

(i) the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives; and

(ii) the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

**SEC. 9. TRADE AND DEVELOPMENT AGENCY.**

(a) IN GENERAL.—The Director of the Trade and Development Agency should—

(1) promote United States private sector participation in energy sector development projects in sub-Saharan Africa through project preparation activities, including feasibility studies at the project, sector, and national level, technical assistance, pilot projects, reverse trade missions, conferences and workshops; and

(2) seek opportunities to fund project preparation activities that involve increased access to electricity, including power generation and trade capacity building.

(b) FOCUS.—In pursuing the policy goals described in section 4, project preparation activities described in subsection (a) should focus on power generation, including renewable energy, improving the efficiency of transmission and distribution grids, including on-grid, off-grid and mini-grid solutions, and promoting energy efficiency and demand-side management.

**SEC. 10. PROGRESS REPORT.**

Not later than three years after the date of the enactment of this Act, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and post through appropriate digital means, a report on progress made toward achieving the policy goals described in section 4, including the following:

(1) The number, type, and status of policy, regulatory, and legislative changes implemented in partner countries to support increased electricity generation and access, and strengthen effective, accountable governance of the electricity sector since United States engagement.

(2) A list of power sector and electrification projects United States Government instruments are supporting to achieve the policy goals described in section 4, and for each such project—

(A) a description of how each such project fits into the national power plans of the partner country;

(B) the total cost of each such project and predicted United States Government contributions, and actual grants and other financing provided to such projects, broken down by United States Government funding source, including from the Overseas Private Investment Corporation, the United States Agency for International Development, the Department of the Treasury, and other appropriate United States Government departments and agencies;

(C) the predicted electrical power capacity of each project upon completion, with metrics appropriate to the scale of electricity access being supplied, as well as total megawatts installed;

(D) compliance with international best practices and expected environmental and social impacts from each project;

(E) the estimated number of women, men, poor communities, businesses, schools, and health facilities that have gained electricity connections as a result of each project at the time of such report; and

(F) the current operating electrical power capacity in wattage of each project.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include any extraneous materials they may want to in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Electrify Africa Act is a direct response to the problem that nearly 600 million people living in sub-Saharan Africa do not have access to reliable electricity.

The Electrify Africa Act offers a market-based response to that problem, and it does this through U.S. private sector investment to develop affordable, reliable energy in Africa. Most importantly, I think it does so at no additional cost to the taxpayer.

Why do we want to help increase energy access to the African continent? To create jobs, to improve lives. It will improve lives in Africa. It will create jobs there and here in the United States. It is no secret that Africa has great potential as a trading partner and could help create jobs here in the U.S.

As the Foreign Affairs Committee investigated how to make better use of the African Growth and Opportunity Act, landmark legislation that we passed over a decade ago to expand trade with Africa, we learned that the lack of affordable, reliable energy made the production of goods for trade and export nearly impossible.

How impossible? I will just give you an example. We were in Liberia looking at the interrupted power that is always a problem there. Even at our own Embassy, the cost of ruining that diesel generator is $10,000 a day sometimes when they have to get that thing up and running in order to keep power generated. You can imagine the problem when you are talking about a country with as much power generation and as much electricity as the size of the electricity that lights up the Dallas Cowboys stadium. That is the problem that one country has. You can imagine what it would mean if we could bring online electricity in order to electrify the subcontinent.

I would also remind the Members that the United States is not alone in its interests in enhancing trade with Africa through investment and energy. The example I would give you is China, because China has stepped in to direct $2 billion towards energy projects on the continent. As I speak, the Chinese Premier is in Africa signing deals that favor Chinese companies over American businesses. If the United States wishes to tap into the potential consumer base there in sub-Saharan Africa, we must act now.

This bill will also have a tangible impact on people's lives, as I said. As former chairman of the Subcommittee on Africa, I have seen firsthand how our considerable investments in improving access to health care, improving access to education in Africa are undermined by the lack of reliable energy. In many places, schoolchildren are forced to study by inefficient, dangerous kerosene lamps. Cold storage of lifesaving vaccines is almost impossible without the existence of reliable electricity. Too many families resort to using charcoal and other inefficient and highly toxic sources of fuel whose fumes in Africa today cause more deaths than HIV/AIDS and malaria, combined.

Many of us on the committee have worked to transform our foreign assistance programs that offer extensive Band-Aids to policies that support economic growth. The Electrify Africa Act is part, frankly, of a very important transition here. This bill mandates a clear and comprehensive U.S. policy, providing the private sector with the certainty that it needs to invest in African electricity at no cost to the U.S. taxpayer. In fact, the bill is predicted to generate savings by requiring the Overseas Private Investment Corporation to focus on these energy priorities and undertake much-needed permanent reforms.

I reserve the balance of my time, Mr. Speaker.

Mr. ENGEL. Mr. Speaker, I rise in strong support of H.R. 2548, the Electrify Africa Act, and I yield myself such time as I may consume.

Mr. Speaker, I would first like to begin by thanking our chairman of the Committee on Foreign Affairs, Mr. ROYCE, for working with us in a bipartisan manner on this important legislation and for his longstanding commitment to improving U.S.-Africa relations and lifting Africans out of poverty.

Mr. ROYCE has long, for many years on the Committee on Foreign Affairs, worked with and been very concerned about Africa. This bill is, in part, a culmination of his hard work and his longstanding dedication.

In the United States, we take reliable electricity for granted. When we flip the switch, we expect the lights to come on. This winter many of us were frustrated when storms knocked out our power. Life was harder as we impatiently waited for the electricity to be restored. Imagine if the power never came back and that was your life every day, year in and year out. That is the stark reality facing many families in Africa.

Indeed sub-Saharan Africa is one of the most energy-deficient regions of the world, with nearly 70 percent of the population, more than half a billion people, lacking access to electricity. In some countries the figure is even higher: in the Democratic Republic of the Congo, 85 percent of the population has no power; in Kenya, 82 percent of the population has no power; and in Uganda, 92 percent. These are truly staggering statistics.

The lack of reliable electricity has a major impact on day-to-day life and many negative consequences. In desperation, people burn anything they can find for heat and cooking: wood, plastic, trash, and other toxic materials. These dirtier fuels cause greater harm to people's health and also to the environment.

Many businesses have had a hard time succeeding because they are forced to pour expensive diesel fuel into generators day and night or deal with constant power outages from unreliable electrical grids. Hospitals cannot provide adequate services because they are unable to provide consistent cold storage, light, or power for lifesaving devices. The list goes on and on.

This legislation directs the executive branch to develop a strategy to increase electrification in Africa and to employ U.S. assistance programs to help accomplish that goal. This long-term strategy will focus not only on providing incentives for the private sector to build more power plants, but also on increasing African government accountability and transparency, improving regulatory environments, and increasing access to electricity in rural and poor communities through small, renewable energy projects.

Only by addressing all of these challenges in a comprehensive way will millions of people in Africa finally have access to electricity that will allow them to grow their economies and ultimately reduce their reliance on foreign aid.

I urge my colleagues to join me in supporting this amendment. It is a very important piece of legislation.

I reserve the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. Mr. Speaker, I thank my friend for yielding to a dissenting opinion.

Mr. Speaker, one of the biggest complaints I hear is the practice of forcing taxpayers to underwrite the losses and risks of politically well-connected companies. Companies reap the profits; taxpayers pay for the losses.

Today the House considers a bill that perpetuates this policy with the objective of creating jobs not in America, but overseas. Quietly tucked into this bill is a provision to reauthorize the Overseas Private Investment Corporation, or OPIC, for another 3 years.

OPIC provides political risk insurance, loan guarantees, and direct loans to U.S. companies for their overseas investments, making U.S. taxpayers responsible for their losses. Recent beneficiaries include the Ritz-Carlton in Istanbul; Citibank branches in Pakistan, Jordan, and Egypt; and a SunEdison solar farm in South Africa.

According to the Congressional Research Service, this does nothing to help our economy. We are told it doesn't cost taxpayers because recent losses have been minimal and covered by fees. I remember similar assurances about Fannie Mae and Freddie Mac. Such assurances are good only until they are not good, and taxpayer exposure is monumental and growing.

This measure directs OPIC ''to prioritize investment in the sub-Saharan electricity sector.'' Yet one company doing so, Symbion, recently warned the Senate that it was owed $70 million at the end of February by utilities in just one African country.

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Reviewing OPIC's $10 billion portfolio in Africa, the Center for Global Development reported that if the money had been used for natural gas plants rather than renewables, an additional 60 million people would have had electricity. But that is not politically correct.

OPIC pays for the bad business decisions of large corporations and underwrites job creation abroad, all ultimately underwritten by hardworking American taxpayers. What is not to like about that?

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

I share the gentleman's concern about corporate welfare. I have spent years pressing OPIC for greater transparency. Finally, in this measure we have a whole host of reforms.

But I will remind this body that years back we exposed and helped kill OPIC's investment funds that were helping political cronies.

I would also remind this body that we are only willing to give OPIC a short-term extension by redirecting it to focus on an area that lacks investment and will have a major impact on the long-term growth of a country, and that is electricity.

I can assure the gentleman from California that this committee will continue its OPIC oversight, but I should note that OPIC is not a free service. OPIC charges fees that generate a financial return for the U.S. Treasury. To ensure that OPIC is not crowding out the private sector, they must demonstrate that no commercial bank is willing to provide the financing package requested directly from OPIC, and this is the case in doing business in Africa.

The temporary authorization for OPIC, by the way, was included in the introduced version of the Electrify Africa Act and has remained in every following version.

I would also point out that this bill includes the significant reforms, additional reforms, that I and others have been trying to get into OPIC. For example, OPIC's operations will finally be transparent to the public, as the agency will be required to post specific information about all of its projects online, including each project's financing, the location, the partners. The bill also creates an OPIC inspector general. It forces OPIC's board to become for the first time in history bipartisan. This ensures that organizations interested in working with OPIC will be able to get a balanced perspective when reaching out to the agency.

I will also close in response by noting that OPIC's last multiyear authorization expired in 2007. The agency has been extended 28 times on appropriations bills and continuing resolutions with zero reforms. We come to the floor here in an open process to try to reform OPIC and to give it this mission. I think this legislation accomplishes a great deal on both fronts.

I continue to reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, when this bill was submitted it had, and continues to have, strong bipartisan support.

I yield as much time as she may consume to the gentlewoman from California (Ms. BASS), one of the original cosponsors on the bill, our ranking member on the Africa Subcommittee.

Ms. BASS. Mr. Speaker, I rise in strong support of H.R. 2548, the Electrify Africa Act of 2014, a bill that directs the President to expand electrification in Sub-Saharan Africa.

I would like to thank my good friends and colleagues, Chairman ED ROYCE and Ranking Member ELIOT ENGEL, and the committee staff, for all of the work that they have done on this important bill.

H.R. 2548 directs the President to establish a multiyear strategy to assist countries in Sub-Saharan Africa to develop an appropriate mix of power solutions to provide sufficient electricity access to people living in rural and urban areas in order to alleviate poverty and drive economic growth.

With greater access to electricity, Africa has the capacity to grow its economies, facilitating greater volumes of interregional, transcontinental, and international trade. Greater access to electricity also enables countries to expand human capacity and address the critical challenges of underemployment. Access to additional power will also help both individual countries and geographic regions address infrastructure challenges related to things such as roads, rail, and ports, all of which contributes to increasing the capacity of African nations and the continent as a whole.

Greater access to electricity improves the quality of life for not only urban, but rural communities. Even though we are well into the 21st century, it is difficult to imagine two-thirds of the population of Sub-Saharan Africa lives without electricity, including more than 85 percent of Africans living in rural areas. Not having electricity means children study by candlelight and doctors and midwives delivering babies who must rely on flashlights. A life without electricity means education, health care, and the basic needs of millions of Africans suffer.

In summary, I believe we are taking a giant step in the right direction by helping to address the issues of access to electrical power in Africa. This bill provides an opportunity to work with the governments and private sectors of African countries anxious to increase their individual and combined regional access to electricity. We all know that seven of the 10 fastest-growing economies are on the African continent. This is a great step forward toward addressing poverty and changing the paradigm in U.S.-Africa relations.

I agree with the chair of the committee who talked about the reforms to OPIC. I would differ with my colleague from California though, because I do believe that as the economies of Africa strengthen, that increases the ability for those countries and businesses on the continent to do business with U.S. companies, which, in my opinion, also increases jobs in the United States.

I urge my colleagues to join me in supporting H.R. 2548, the Electrify Africa Act of 2014.

Mr. ROYCE. Mr. Speaker, I continue to reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

In closing, I would like to once again point out that this is a bipartisan bill. The four original cosponsors are Chairman ROYCE and Chairman SMITH on the Republican side, myself as the ranking member, and Ms. BASS as the ranking member on the Africa Subcommittee on the Democratic side. So this is truly a bipartisan collaboration that is very important, well thought out, and I agree with everything the chairman said. This bill will reform OPIC and will reform how this kind of aid is done.

I would like to again thank Chairman ROYCE for being an outstanding

partner in drafting this legislation and for his leadership in passing the bill out of our committee unanimously. That is another thing that I think is so important to what we do on the committee. We try to pass things in consensus and try to let everybody put his or her thoughts into the bill. This passed unanimously out of the committee, and that doesn't happen lightly or easily. It is done because lots of concerns were taken into consideration, things were ameliorated, things were changed, and what we have is a very, very good product.

As has been said, this legislation has the potential to impact millions of people in Sub-Saharan Africa. A doctor in Kenya will be able to treat a patient without worrying about her equipment shutting off, a child in Congo can continue studying long after the sun sets. The bottom line is that reliable access to electricity will help build African economies and reduce their reliance on foreign aid, saving the United States money.

I hope the Senate will also take action on this bill, again, which has broad bipartisan support in the Senate. I urge my colleagues to support this positive piece of legislation for Africa.

I yield back the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

I do want to thank Ranking Member ELIOT ENGEL of New York, as well as Chairman CHRIS SMITH and Ranking Member KAREN BASS of the Africa Subcommittee, for working closely with me to craft the Electrify Africa Act.

I will remind the Members that where the United States has left a void for economic investment in the world—and Africa is one of them—China has stepped in. In this case, we are speaking at a time when the Premier of China is on the ground right now in Sub-Saharan Africa. China has stepped in to direct $2 billion to African energy projects. This bill will counter China's growing commercial and strategic influence.

But what else will the bill do? Unlocking the constraint on African economic growth means a continent less reliant on aid. The bill promotes an all-of-the-above approach to electricity that includes natural gas and clean coal and hydro.

The CBO estimates that this bill will save the U.S. Treasury $86 million. Electrify Africa imposes permanent reform, as I mentioned, on the Overseas Private Investment Corporation. The bill focuses OPIC on promoting electricity in Africa. It forces oversight. It demands transparency on the institution, lays that out, and makes the OPIC board bipartisan.

There is every reason to support efforts that encourage economic independence, that strengthen trading partners and that compete with Chinese influence in a vital region, as someone once said.

I also want to recognize the wide range of enthusiasm for this bill. We have received letters of support from 35 African ambassadors, the Chamber of Commerce, the Corporate Council on Africa, the National Rural Electric Cooperative Association, the American Academy of Pediatrics—and we know from KAREN BASS' testimony why they are in support—and from the One Campaign. Many of these supporters have joined us today in the House gallery to watch this landmark vote.

The United States has economic and national security interests in the continued development of the African continent. This bill sets out a comprehensive, sustainable, market-based plan to bring close to 600 million Africans out of the dark and into the global economy, benefiting American businesses and workers at the same time.

Mr. Speaker, I urge Members to support H.R. 2548, the Electrify Africa Act.

I yield back the balance of my time.

Mrs. LUMMIS. Mr. Speaker, today the U.S. House of Representatives considered legislation important to improving the quality-of-life and opportunities for the millions of people living in sub-Saharan Africa. H.R. 2548, the Electrify Africa Act, would require the United States to develop a comprehensive strategy to improve access to electricity for the nearly 600 million people currently living without it in those countries.

Almost 70 percent of the population in sub-Saharan Africa lives in energy poverty, without access to even basic electricity services. The connection between energy poverty and economic poverty cannot be ignored. For those of us in the United States with access to reliable electricity, it is difficult to truly comprehend what life would be like without the services electricity provides: the ability to simply flip a light switch to have light at any hour of the day, or charge your cell phone; refrigeration of foods, medicines, and life-saving vaccines; indoor cooking; use of the Internet; advanced health care technology; clean water and sanitation services. The list goes on and on.

But consider how different our lives would be if we did not have access to affordable and reliable electricity—what it would be like if we had to travel miles each day to gather fuel sources to cook our food; had to rely only on daylight to accomplish tasks; had no access to clean water and other sanitation services; and no access to life-saving medical technology readily available in other parts of the world but that require electricity to work. That is the reality for the hundreds of millions of people in sub-Saharan Africa. They struggle each day to provide for their basic needs. Affordable and reliable access to electricity would transform these regions, providing opportunities for economic growth and a better quality-of-life.

What I consider especially important about H.R. 2548 is that this bill recognizes that a "one-size-fits-all" energy strategy will not benefit these countries and their populations. This legislation calls for an appropriate mix of energy options, non-renewable and renewable, to address the energy poverty endemic to these regions. In its report, the House Foreign Affairs Committee notes that coal, natural gas, and oil are all available potential energy sources to generate electricity in sub-Saharan Africa, as well as solar, hydropower, and geothermal.

An all-inclusive energy mix is vital to addressing energy accessibility and reliability in impoverished parts of the world. Regions and countries should responsibly generate power using the energy resources that are most readily available to them and that provide the most affordable and reliable option. If the energy source to generate the electricity is available but so expensive that people cannot afford to use it, then what good does it do? Similarly, an electricity supply too dependent on intermittent sources does not benefit a health care provider trying to perform a procedure using medical equipment reliant on a consistent source of electricity or administer vaccines that must be kept refrigerated.

The current Administration has unfortunately sought to dictate what sources of energy can be used in developing nations, promoting some and discriminating against others, namely cheap and abundant coal-fired power. This only does a disservice to the people who need the services and opportunities that electricity provides. H.R. 2548 reminds us of the consequences of not having access to affordable and reliable electricity, something I think many of us take for granted. It further reminds us about the importance of an all-of-the-above energy mix to our country's access to cheap and reliable electricity, economic stability, and quality-of-life. I am pleased that the Electrify Africa Act recognizes these realities, establishing a framework for countries in Sub-Saharan Africa to pursue the energy development that makes the most sense for them.

Mr. SMITH of New Jersey. Mr. Speaker, Chairman ROYCE and Ranking Member ENGLE, thank you for introducing this important legislation H.R. 2548, the Electrify Africa Act, which my subcommittee Ranking Member KAREN BASS and I have joined you in sponsoring. We acknowledge the importance of this legislation, and we hope our colleagues share our enthusiasm for what this bill can accomplish.

Congress' interest in Africa is not only longstanding, but also varied. Some of focus on development, and some are more interested in trade. Others are keen to meet the humanitarian needs of the continent, while still others believe education is the key to Africa's future success. All of those elements are important, but none of them can be accomplished fully without electricity, which is in far too short a supply throughout Africa.

In Africa's largest cities, there are plenty of lights, and in Lagos, Accra, Nairobi, Dakar, Johannesburg, Addis Ababa or Lusaka the modern way of life is thriving—day or night. Unfortunately, in many other cities, electricity is fleeting, and in too many rural areas it is simply scarce. Generators provide the power by which many companies are forced to do business, and in many homes, generators are needed to ensure that modern activities can continue when the government-provided power flickers out. This is so expensive that many Africans are forced to rely on more basic means of providing light once night approaches, but in the 21st century, the people of Africa must not be dependent on the sun or candles and lanterns to deliver their light. Certainly, these means cannot power their cell phones, televisions or other technology on which today's societies thrive.

We all want Africa to join in the development the rest of the world enjoys, yet that is not possible without a steady source of energy. Manufacturing is only a notion without the power to move assembly lines and

produce goods. Vaccines and other medicines will last only so long without refrigeration, and that requires steady electrical power. A student studying by candlelight or by the light of a lantern is a quaint notion that can no longer be the reality of young Africans striving to build a better life.

H.R. 2548 will improve access to affordable, reliable electricity in sub-Saharan Africa, where more than two-thirds of Africans lack access to electricity. This bill does not provide electricity as a gift; it facilitates cooperation between our government and African governments in finding the most efficient and effective means of establishing electric power for their citizens. By requiring our Administration to create a comprehensive multiyear strategy, H.R. 2548 ensures that there is a mutually agreeable plan that can be implemented by future Administrations and Congresses in collaboration with willing African partners. This bill also calls on U.S. representatives to international institutions to leverage other international support for providing electricity to Africa.

I call on my colleagues to join with us in voting for H.R. 2548. In doing so, we will not only provide power for Africa, but we also will energize our dreams for Africa's current and future development.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and pass the bill, H.R. 2548, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MCCLINTOCK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

## URGING BURMA TO END PERSECUTION OF ROHINGYA PEOPLE

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 418) urging the Government of Burma to end the persecution of the Rohingya people and respect internationally recognized human rights for all ethnic and religious minority groups within Burma, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 418

Whereas over 800,000 Rohingya ethnic minority live in Burma, mostly in the western Rakhine state;

Whereas currently, approximately 140,000 Rohingya are internally displaced in central Rakhine state and hundreds of thousands have fled to neighboring countries, including at least 231,000 in Bangladesh, at least 15,000 in Malaysia, and many more in Thailand and Indonesia;

Whereas the current Government of Burma, like its predecessors, continues to use the Burma Citizenship Law of 1982 to exclude from approved ethnic groups the Rohingya people, despite many having lived in northern Rakhine state for generations, and has thereby rendered Rohingyas stateless and vulnerable to exploitation and abuse;

Whereas the Rohingya have historically experienced other particularized and severe legal, economic, and social discrimination, including restrictions on travel outside their village of residence, limitations on their access to higher education, and a prohibition from working as civil servants, including as doctors, nurses, or teachers;

Whereas authorities have also required Rohingya to obtain official permission for marriages and have singled out Rohingya in northern Rakhine state for forced labor and arbitrary arrests;

Whereas the Government of Burma has forcefully relocated Rohingya into relief camps, where they lack decent shelter, access to clean water, food, sanitation, health care, the ability to support themselves, or basic education for their children;

Whereas a two-child policy sanctioned solely upon the Rohingya population in the districts of Maungdaw and Buthidaung in northern Rakhine state restricts the rights of women and children, prevents children from obtaining Burmese citizenship, denies Rohingyas access to basic government services, and fosters discrimination against Muslim women by Buddhist nurses and midwives;

Whereas the United States Department of State has regularly expressed since 1999 its particular concern for severe legal, economic, and social discrimination against Burma's Rohingya population in its Country Report for Human Rights Practices;

Whereas the level of persecution, including widespread arbitrary arrest, detention, and extortion of Rohingya and other Muslim communities, has dramatically increased over the past year and a half;

Whereas communal violence has affected both Muslims and Burma's majority Buddhist population, but has overwhelmingly targeted Burma's ethnic Muslim minorities, which altogether comprise less than 5 percent of Burma's population;

Whereas violence targeting Rohingyas in Maungdaw and Sittwe in June and July of 2012 resulted in the deaths of at least 57 Muslims and the destruction of 1,336 Rohingyas homes;

Whereas on October 23, 2012, at least 70 Rohingyas were killed, and the Yan Thei village of the Mrauk-U Township was destroyed;

Whereas the United Nations High Commissioner for Human Rights reported possessing credible evidence of the deaths of at least 48 Rohingyas in Du Chee Yar Tan village in Maungdaw Township, Rakhine state in January 2014, and human rights groups reported mass arrests and arbitrary detention of Rohingya in the aftermath of this violence;

Whereas Burmese officials have denied the killings of Rohingyas in Du Chee Yar Tan village in January 2014 and responded to international media coverage of the violence with threats against media outlets, including the Associated Press;

Whereas violence has also targeted Muslims not of Rohingya ethnicity, including riots in March 2013 in the town of Meiktila that resulted in the death of at least 43 Burmese Muslims, including 20 students and several teachers massacred at an Islamic school, the burning of at least 800 homes and 5 mosques, and the displacement of 12,000 people;

Whereas on October 1, 2013, riots involving more than 700 Buddhists in Thandwe township resulted in the death of 4 Kaman Muslim men and the stabbing death of a 94-year-old Muslim woman;

Whereas over 4,000 religious, public, and private Rohingya structures have been destroyed;

Whereas Rohingyas have experienced and continue to experience further restrictions on their practice of Islam, culture, and language;

Whereas the violence against ethnic Muslim populations, including the Rohingya and other Muslim groups, is part of a larger troubling pattern of violence against other ethnic and religious minorities in Burma;

Whereas the Government of Burma expelled Medecins Sans Frontieres from Rakhine state, leaving Rohingya communities and others without access to health care and life-saving treatment for malaria, tuberculosis, and HIV; and

Whereas the Rakhine state threatens to ban all unregistered nongovernmental organizations from operating in Rakhine state, severely limiting the provision of necessary services to Rohingyas and others in need: Now, therefore, be it

*Resolved,* That the House of Representatives—

(1) recognizes the initial steps Burma has taken in transitioning from a military dictatorship to a quasi-civilian government, including the conditional release of some political prisoners, and calls for more progress to be made in critical areas of democracy, constitutional reform, and national reconciliation in order for Burma to achieve its own goal of political liberalization;

(2) calls on the Government of Burma to end all forms of persecution and discrimination of the Rohingya people and ensure respect for internationally recognized human rights for all ethnic and religious minority groups within Burma;

(3) calls on the Government of Burma to recognize the Rohingya as an ethnic group indigenous to Burma, and to work with the Rohingya to resolve their citizenship status;

(4) calls on the United States Government and the international community to put consistent pressure on the Government of Burma to take all necessary measures to end the persecution and discrimination of the Rohingya population and to protect the fundamental rights of all ethnic and religious minority groups in Burma; and

(5) calls on the United States Government to prioritize the removal of state-sanctioned discriminatory policies in its engagement with the Government of Burma.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from New York (Mr. ENGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include any extraneous materials in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 418. This is a bipartisan resolution offered by the gentleman from Massachusetts (Mr. MCGOVERN) calling on the government of Burma to end its persecution of the Rohingya Muslims and respect the human rights of all ethnic and religious minority groups within Burma.

The Rohingya Muslims are one of the most persecuted minority groups in the world. According to Burma's 1982 citizenship law, the Rohingya are prohibited from holding Burmese citizenship, even though they have lived in Burma for generations after generations. For over three decades, the government of Burma has systematically denied the Rohingya even the most basic of human rights, while subjecting them to unspeakable abuses.

Since 2012, 140,000 Rohingya and other Muslims in Burma have been displaced by violence, with hundreds killed. On January 13, unknown assailants entered a village in Rakhine State and killed 48 people while they slept.

□ 1945

This is what happens when a government refuses to recognize its own people.

In fact, a nongovernmental organization based in Southeast Asia recently disclosed credible documents detailing the full extent of state involvement in persecuting Rohingyas.

Not long ago, the Government of Burma expelled Doctors Without Borders from the country, denying, once again, the most basic of human rights. The Government of Burma cannot claim progress toward meeting its goals for reform if it does not improve the treatment of Rohingya Muslims and other minority groups.

The United States must prioritize the protection of human rights in its engagement with Burma. I urge the State Department to take off its rose-colored glasses and recognize that progress on human rights in Burma is, indeed, limited. Now is the time for the State Department to bring additional leverage to bear, and this resolution will help us do that.

I reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H. Res. 418, a resolution urging the Government of Burma to end its persecution of the Rohingya people.

I would like to thank my good friend and cochairman of the Tom Lantos Human Rights Commission, the gentleman from Massachusetts (Mr. MCGOVERN), for authoring this important resolution.

H. Res. 418 calls on the Government of Burma to end its persecution of the Rohingya people and to respect the human rights of all ethnic and religious minority groups. The plight of the Rohingya gets very little public attention, and I am pleased that this House is addressing the abuses they and other minorities have suffered.

The State Department's 2013 Country Reports on Human Rights Practices acknowledges ''credible reports of extrajudicial killings, rape and sexual violence, arbitrary detentions and torture and mistreatment in detention, deaths in custody, and systematic denial of due process and fair trial rights overwhelmingly perpetrated against the Rohingya.''

Last month, the U.N. Special Rapporteur on Human Rights in Burma stated that the recent developments in Burma reflect a ''long history of discrimination and persecution against the Rohingya Muslim community, which could amount to crimes against humanity.''

The U.N. has also described the Rohingya community as virtually friendless because they are denied citizenship and face severe restrictions on marriage, employment, health care, education, and daily movement.

In February, the Burmese Government expelled Doctors Without Borders; and since then, deaths due to preventable complications during pregnancy have occurred on an almost daily basis in Rohingya camps, where pregnant women make up a quarter of the group's emergency referrals.

Mr. Speaker, as the Government of Burma transitions from decades-long military rule to a civilian government, it is important to hold it accountable for persistent human rights abuses.

The killings, arbitrary detentions, and the destruction of homes have caused 140,000 people to be internally displaced; and hundreds of thousands have been forced to flee to neighboring countries, including to Thailand, Bangladesh, and Malaysia.

If Burma truly seeks to rejoin the international community, the manner in which it treats its own people will be a key marker of the government's sincerity. Burma must abide by human rights principles of equality and human dignity, and this resolution calls upon the Burmese Government to do just that.

I urge my colleagues to join me in supporting H. Res. 418, and I reserve the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT). He is the chairman of the Foreign Affairs Subcommittee on Asia and the Pacific.

Mr. CHABOT. I thank the gentleman for yielding.

Mr. Speaker, I rise today as a strong supporter and cosponsor of H. Res. 418, urging the Government of Burma to end the persecution of the Rohingya people and to respect internationally recognized human rights for all ethnic and religious minority groups within Burma.

I want to commend the gentleman from Massachusetts (Mr. MCGOVERN), my friend and colleague, for offering this legislation, which is certainly timely, and we appreciate his leadership on this.

As chairman of the Subcommittee on Asia and the Pacific, I believe it is imperative that the U.S. and the international community raise awareness of this ongoing crisis in Burma and of the need for its government to respect the human rights of all of its ethnic and religious minority groups, which it is clearly not doing at this time.

Last year, we held two hearings in my subcommittee to examine the deteriorating human rights situation and ethnic unrest in Burma. It has become abundantly clear that the political and social situation there is extremely fragile and that the continuing persecution of the minority Rohingya population is just, as was said, a profound crisis.

Some 140,000 displaced Rohingya have been forced to live in camps described as open-air prisons. Doctors Without Borders was forced out by the Burmese Government, and since then, nearly 150 Rohingya have died of medically-related causes.

This particular photo illustrates that the Doctors Without Borders' clinic is shuttered. They are gone. The people are not getting the medical care that they are entitled to, and people are literally dying as a result of this.

Further, mob violence has made a number of other international NGOs evacuate Burma for fear and for being, essentially, excluded by the government. They were doing good work for people who really needed it, who were in dire straits.

The Burmese Government has taken few, if any, steps to forge a peaceful, harmonious, and prosperous future for the Rakhine State. It is complicit in extrajudicial killings, rape, arbitrary detention, torture, deaths in detention, and for the denial of due process and fair trial rights for the Rohingya.

As these horribly repressed people who are afforded no identity by the Burmese Government have been forced into camps, the Burmese Government has confiscated their land, their homes, and property for redistribution to the Buddhist Rakhine majority.

A recent report by the group United to End Genocide found that nowhere else in the world are there more precursors to genocide—signs that genocide may well happen—than in Burma right now.

This is why I recently introduced H.R. 4377, the Burma Human Rights and Democracy Act of 2014, with my colleague from New York (Mr. CROWLEY), a Democrat. This legislation would place conditions on providing International Military and Educational Training or for Foreign Military Financing assistance to the Burmese Government.

In light of the Burmese Government's and military's complicity in these ongoing human rights abuses against the Rohingya and other ethnic groups, it is much too soon for us to be engaging at a level that provides U.S. foreign assistance to Burma's corrupt and abusive military.

It concerns me that the administration still refuses to cooperate or to detail what its strategy really is for the future of military engagement with Burma.

Mr. Speaker, H. Res. 418 highlights its need for the U.S. and international community to continue pressuring Burma to end its blatant persecution and discrimination of the Rohingya population.

I want to, again, thank Mr. MCGOVERN, Mr. FRANKS, Mr. PITTS, and Mr. SMITH for cosponsoring this resolution. I believe the passage of the resolution will send a strong message to the Burmese Government, and I would urge my colleagues to support this measure.

Mr. ENGEL. Mr. Speaker, I now yield such time as he may consume to the gentleman from Massachusetts (Mr. MCGOVERN), the author of the resolution.

Mr. MCGOVERN. I want to thank my colleague, Mr. ENGEL, for yielding me the time and for his leadership on this and on so many other issues of human rights. I also want to thank Chairman ROYCE for his support and Chairman CHABOT. I appreciate all that you do for human rights.

I admire all of these gentlemen who are here on the floor. They have been outspoken for human rights, not only in Burma, but all around the world.

Mr. Speaker, I am very proud to rise in support of this resolution urging the Government of Burma to end the persecution of the Rohingya people and to respect internationally recognized human rights for all ethnic and religious minority groups within Burma.

I especially want to thank my good friend and colleague, the gentleman from Pennsylvania, Congressman JOE PITTS, for his leadership on this issue and for joining me in introducing this bipartisan resolution.

Over 800,000 people of the Rohingya ethnicity live in Burma, mostly in the Rakhine State. Even though many Rohingyas have lived in the Rakhine for generations, the Burma citizenship law of 1982 has excluded them from approved ethnic groups, thereby rendering them stateless and vulnerable to exploitation, violence, and abuse.

While the Rohingya and other minorities in Burma have historically experienced severe discrimination, there has been a dramatic increase in discrimination and violence against them in the past 2 years.

Attacks in June and July of 2012 resulted in the deaths of at least 57 Muslims and in the destruction of 1,336 Rohingya homes. On October 23, 2012, at least 70 Rohingyas were killed, and their township was destroyed.

Further, the United Nations' High Commissioner for Human Rights reported possessing credible evidence of the deaths of at least 48 Rohingyas in January of this year, and human rights groups reported mass arrests and arbitrary detentions of Rohingya in the aftermath of this violence.

In addition, other Muslim minorities have also suffered from violent attacks, and many have lost their lives and property in the last year and a half. Such violence against ethnic Muslim populations, including the Rohingya, is part of a larger, troubling pattern of violence against ethnic and religious minorities in Burma.

The Government of Burma remains apathetic to the plight of the Rohingya population, and it has failed to properly investigate the major events of anti-Rohingya violence. Instead, both the Rakhine State and central government continue to impose explicitly racist policies that seek to control the everyday lives of the Rohingya.

Authorities require Rohingya to obtain official permission for marriages and have often singled out Rohingya for forced labor and arbitrary arrests. The Government of Burma has forcefully relocated Rohingya into relief camps, where they lack decent shelter, access to clean water, food, sanitation, health care, and the ability to support themselves, or basic education for their children.

The Rohingya are the sole targets of the two-child policy and are the subjects to severe restrictions of movement. Further, as evidenced by the latest census in Burma, the Burmese Government continues to deny the Rohingyas their right for self-identification, sending a clear message that the Rohingya are outsiders who have no place in Burma.

Today, approximately 140,000 Rohingya are internally displaced, and hundreds of thousands have fled to neighboring countries by boats; many have died at sea. Those who remain in the country live in dire poverty and deprivation.

Some relief used to come from humanitarian organizations like Doctors Without Borders, but even that aid is no longer available. The Government of Burma expelled Doctors Without Borders in March, allegedly after the group cared for the victims of a violent assault on a Rohingya village, an assault which the government denies ever happened.

Increasingly, severe restrictions and violent attacks on other humanitarian aid groups have forced the majority of them to flee the Rakhine State, and the Rohingya now remain with no one and with nowhere to turn for help and health care. Every day, more and more people die of causes that could be preventable or treatable if humanitarian groups had the chance to help.

According to a March 14 article in The New York Times, which I will submit for the RECORD, nearly 750,000 people, the majority of them Rohingya, have been deprived of medical services since the Burmese Government banned the operations of Doctors Without Borders.

According to the article, during the first 2 weeks of March alone, about 150 of those most vulnerable and in need of care died, including 20 pregnant women who were facing life-threatening deliveries.

[From the New York Times, Mar. 14, 2014]

BAN ON DOCTORS' GROUP IMPERILS MUSLIM MINORITY IN MYANMAR

(By Jane Perlez)

BANGKOK.—Nearly 750,000 people, most of them members of a Muslim minority in one of the poorest parts of Myanmar, have been deprived of most medical services since the government banned the operations of Doctors Without Borders, the international health care organization and the main provider of medical care in the region.

The government ordered a halt to the work of Doctors Without Borders two weeks ago after some officials accused the group of favoring the Muslims, members of the Rohingya ethnic group, over a rival group, Rakhine Buddhists.

Already, anecdotal evidence and medical estimates show that about 150 of the most vulnerable have died since Feb. 28, more than 20 of them pregnant women facing life-threatening deliveries, medical professionals said. Doctors Without Borders had been the only way for pregnant women facing difficult deliveries to get a referral to a government hospital, they said.

At the time of the order, the government said it was suspending the group's operations in Rakhine State in the far north, but it has offered no time frame for when services might be resumed. The deputy director general of the Ministry of Health, Dr. Soe Lwin Nyein, said in a statement that his department would manage the health needs of the ''whole community.'' A spokesman for President Thein Sein, Ye Htut, said the government dispatched an emergency response team with eight ambulances after the Doctors Without Borders clinics were closed.

Myanmar's health services are among the most rudimentary in Asia, and with severe government restrictions on movement that prevent Muslims from seeking medical help outside their villages in Rakhine State, the impact of the shutdown will be severe, medical professionals said.

Doctors Without Borders was by far the biggest health provider in the northern part of Rakhine around the townships of Maungdaw and Buthidaung, serving about 500,000 people, most of them Rohingya, they said. An additional 200,000 people, many of them Rohingya in displaced camps around the state capital, Sittwe, had access to the group's services.

In Aung Mingla, a Muslim neighborhood in Sittwe, patients with tuberculosis, a common disease in the area, said they were down to their last supplies of medicine. The Rohingya who live in Aung Mingla are prevented from leaving the district by barbed-wire security posts and police officers.

''Since Doctors Without Borders is not in Rakhine, I don't know who will provide medicine when my supply runs out in three months,'' said one patient, Muklan, 30, who like many people in Myanmar goes by a single name. ''I hope Doctors can come back as soon as possible.''

Another Rohingya man, Shafiul, who worked for Doctors Without Borders in Aung Mingla, said he was concerned for his patients with tuberculosis, malaria and H.I.V. ''These patients have been getting help from Doctors Without Borders for years,'' he said.

In northern Rakhine State, where Doctors Without Borders had run five permanent clinics and 30 mobile ones, about 20 percent of children are acutely malnourished, medical professionals said. An intensive feeding center for those patients was shuttered as part of the government's directive.

For the most part, Western donors and the United Nations say they are reluctant to antagonize the government of Myanmar, which has started along the path of economic and political reform. The donors have chosen quiet diplomacy over outspoken criticism of the government's policies toward the Rohingya.

But the action against Doctors Without Borders raised some public alarm.

''We are extremely concerned about the situation,'' said Mark Cutts, the head of the United Nations Office for the Coordination of Humanitarian Affairs in Myanmar. ''We are in intense discussion with the government in

a way that will allow operations to resume as soon as possible.''

The deputy health director, Dr. Soe Lwin Nyein, said the government would accept supplies of medicine for tuberculosis and H.I.V. from Doctors Without Borders. But how these supplies will be distributed remains unclear. Negotiations are underway with the government over the distribution, Western officials said.

Other international organizations, including the International Committee of the Red Cross, which supports government health centers around the towns of Sittwe and Mrauk U, have been allowed to continue operations in Rakhine. But Doctors Without Borders was by far the largest health provider.

The government targeted the group after its rural clinics provided treatment to 22 Muslims in the aftermath of a rampage by Rakhine security officers and civilians in the village of Du Chee Yar Tan in January. The United Nations says 40 people were killed in the violence that night.

The government has denied that the deaths occurred, and on Tuesday, a presidential commission sent to the village to conduct an inquiry reported that it could find no evidence of the killings. The commission was the third investigative group sent by the government, and its findings matched those of the previous inquiries.

After the killings in January, the government criticized Doctors Without Borders for hiring Rohingya and said the group was giving disproportionate attention to Rohingya patients. Under state regulations in Rakhine, Rohingya are prevented from visiting many of the state-run clinics.

Doctors Without Borders says it has treated patients in Rakhine since 1994 regardless of ethnicity, and foreign aid workers point out that the Rakhine Buddhist ethnic group has access to government health facilities that are generally denied to the Rohingya.

A radical Buddhist leader in Myanmar, Ashin Wirathu, who has compared Muslims to dogs, arrived in Sittwe on Wednesday for a five-day visit that was likely to stir anti-Muslim sentiments further. In a sermon at the main Buddhist temple Wednesday night, he said that if Western democracies were allowed to have influence in Myanmar, the Rakhine people would be overwhelmed by increasing numbers of Muslims, and would eventually disappear.

The monk's visit appeared to be timed ahead of a national census—the first in Myanmar in more than 30 years—that is due to take place March 30 to April 10 across Myanmar. Tensions during the census, funded in part by the United Nations and the British government, are expected to be high in Rakhine.

Rakhine politicians have said they oppose allowing the Rohingya to identify themselves as Rohingya when they fill out the census forms. If they did, the census would probably show that their numbers are greater than the current estimate of 1.3 million. The overall population is estimated at 60 million.

By shutting down Doctors Without Borders, the government is ensuring that there will be fewer foreigners to witness any outbreaks of violence during the census process, aid workers said.

Mr. MCGOVERN. Mr. Speaker, when Doctors Without Borders was able to work in Rakhine, they sent approximately 400 emergency cases every month to local hospitals, but according to the World Health Organization, fewer than 20 people received referrals by the government for emergency care in March. Such a difference suggests that the Rohingya who are in desperate need of emergency care are left to suffer or to die.

In light of these disturbing events, it is important that the House speaks with one voice today and calls on the Government of Burma to end all forms of persecution and discrimination of the Rohingya people and to ensure respect for internationally recognized human rights for all ethnic and religious minority groups within Burma.

The Burmese Government needs to recognize the Rohingya as an ethnic group indigenous to Burma and work with the Rohingya to resolve their citizenship status.

Finally, the U.S. Government needs to make the removal of state-sanctioned discriminatory policies a priority in their engagement with the Government of Burma.

□ 2000

Let me be clear: the situation is dire and rapidly deteriorating. Multiple recognized independent human rights NGOs, as well as the U.N. Special Rapporteur on human rights in Burma, have stated that the series of actions directed at the Rohingyas in Burma could amount to crimes against humanity.

Further, a recent report by the U.S. NGO, United to End Genocide, states that nowhere in the world are there more precursors to genocide than in Burma right now.

In the past few weeks, we have all taken time to remember and commemorate the victims of the Armenian genocide, the Holocaust, and the genocide in Rwanda. We saw the same disturbing signs in other moments of history, and we know what the consequences are of not paying attention. Showing support for this bill is one step that we can take today to fulfilling the solemn pledge of ''never again.''

I urge my colleagues to vote in support of this bill.

Mr. ROYCE. Mr. Speaker, I continue to reserve the balance of my time.

Mr. ENGEL. Mr. Speaker, I yield myself such time as I may consume.

In closing, I would like to thank Congressman MCGOVERN, the gentleman from Massachusetts, for drafting this important legislation. Once again, I thank Chairman ROYCE for his continued bipartisan leadership.

As has been said, this resolution calls upon the Burmese government to end the persecution of the Rohingya people and to respect the human rights of all ethnic and religious minority groups.

Until now, the treatment of the Rohingya has been largely ignored by the international community. That is the purpose of this resolution—so they cannot be ignored any longer.

It is time for the United States to send a clear and strong message to the government of Burma that we will not tolerate the persecution of religious and ethnic minorities, and that it must abide by human rights principles of equality and dignity if it is to rejoin the international community.

So I urge my colleagues to support this resolution, and I yield back the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Again, I want to thank the gentleman from Massachusetts (Mr. MCGOVERN), for his support of the Rohingya people, but also for his dedication to human rights. I have had an opportunity to work with Mr. MCGOVERN on a number of different human rights bills. I think he eloquently explained tonight the challenge that we face here. I was proud to join him as a cosponsor of this measure and work with him.

I also, of course, want to thank the gentleman from New York, ELIOT ENGEL, for his continued focus on human rights around the world.

On this issue, it is true that the Burmese government has recently taken steps to open its closed society, but the reality is that the recent events here are deeply, deeply troubling to anyone who is watching. As I indicated, 48 Rohingya were murdered, aid workers trying to care for thousands of displaced have been attacked in the country, and Doctors Without Borders was kicked out of Burma.

This resolution calls on the government of Burma to immediately recognize the Rohingya as an ethnic minority and to grant them citizenship, a step that is long overdue, as Mr. MCGOVERN pointed out.

I urge my colleagues to support this bipartisan resolution. Let's all send a message that the current state of human rights in Burma is unacceptable.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and agree to the resolution, H. Res. 418, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 4 minutes p.m.), the House stood in recess.

□ 2155

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WOODALL) at 9 o'clock and 55 minutes p.m.

## REPORT ON H. RES. 567, PROVIDING FOR THE ESTABLISHMENT OF THE SELECT COMMITTEE ON THE EVENTS SURROUNDING THE 2012 TERRORIST ATTACK IN BENGHAZI

Ms. FOXX, from the Committee on Rules, submitted a privileged report (Rept. No. 113–442) on the resolution (H. Res. 567) providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. RES. 567, ESTABLISHING SELECT COMMITTEE ON BENGHAZI

Ms. FOXX, from the Committee on Rules, submitted a privileged report (Rept. No. 113–443) on the resolution (H. Res. 575) providing for consideration of the resolution (H. Res. 567) providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 10, SUCCESS AND OPPORTUNITY THROUGH QUALITY CHARTER SCHOOLS ACT; RELATING TO CONSIDERATION OF H.R. 4438, AMERICAN RESEARCH AND COMPETITIVENESS ACT OF 2014; AND FOR OTHER PURPOSES

Ms. FOXX, from the Committee on Rules, submitted a privileged report (Rept. No. 113–444) on the resolution (H. Res. 576) providing for consideration of the bill (H.R. 10) to amend the Charter School Program under the Elementary and Secondary Education Act of 1965; relating to consideration of the bill (H.R. 4438) to amend the Internal Revenue Code of 1986 to simplify and make permanent the research credit; and for other purposes, which was referred to the House Calendar and ordered to be printed.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RUSH (at the request of Ms. PELOSI) for today.

## ENROLLED BILL SIGNED

Karen L. Haas, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the speaker:

H.R. 4192. An act to amend the Act entitled ''An Act to regulate the height of buildings in the District of Columbia'' to clarify the rules of the District of Columbia regarding human occupancy of penthouses above the top story of the building upon which the penthouse is placed.

## ADJOURNMENT

Ms. FOXX. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, May 8, 2014, at 10 a.m. for morning-hour debate.

## EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for Official Foreign Travel during the first quarter of 2014 pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Ander Crenshaw | 1/17 | 1/18 | Germany | | 356.79 | | | | | | |
| | 1/18 | 1/19 | Turkey | | 100.00 | | | | | | |
| | 1/19 | 1/19 | Georgia | | | | | | | | |
| | 1/19 | 1/20 | Jordan | | 355.41 | | | | | | |
| | 1/20 | 1/21 | United Arab Emirates | | 526.00 | | | | | | |
| | 1/21 | 1/21 | Afghanistan | | 0.00 | | | | | | |
| | 1/21 | 1/23 | Ethiopia | | 800.00 | | | | | | |
| | 1/23 | 1/23 | Uganda | | 0.00 | | | | | | |
| | 1/23 | 1/25 | Rwanda | | 676.00 | | | | | | |
| | 1/25 | 1/26 | Cape Verde | | 332.20 | | | | | | |
| Hon. Ken Calvert | 2/13 | 2/15 | Pakistan | | 210.00 | | | | | | |
| | 2/15 | 2/17 | Afghanistan | | 56.00 | | | | | | |
| | 2/17 | 2/19 | Qatar | | 860.00 | | | | | | |
| | 2/19 | 2/23 | Jordan | | 1,424.00 | | | | | | |
| Commercial airfare | | | | | | | 10,113.15 | | | | |
| Hon. Rodney Frelinghuysen | 2/13 | 2/15 | Pakistan | | 210.00 | | | | | | |
| | 2/15 | 2/17 | Afghanistan | | 56.00 | | | | | | |
| | 2/17 | 2/19 | Qatar | | 860.00 | | | | | | |
| | 2/19 | 2/23 | Jordan | | 1,424.00 | | | | | | |
| Commercial airfare | | | | | | | 10,147.65 | | | | |
| Hon. Peter Visclosky | 2/13 | 2/15 | Pakistan | | 210.00 | | | | | | |
| | 2/15 | 2/17 | Afghanistan | | 56.00 | | | | | | |
| | 2/17 | 2/19 | Qatar | | 860.00 | | | | | | |
| | 2/19 | 2/23 | Jordan | | 1,424.00 | | | | | | |
| Commercial airfare | | | | | | | 10,147.65 | | | | |
| Hon. James Moran | 2/13 | 2/15 | Pakistan | | 210.00 | | | | | | |
| | 2/15 | 2/17 | Afghanistan | | 56.00 | | | | | | |
| | 2/17 | 2/19 | Qatar | | 860.00 | | | | | | |
| | 2/19 | 2/23 | Jordan | | 1,424.00 | | | | | | |
| Commercial airfare | | | | | | | 10,148.15 | | | | |
| Paula Juola | 2/13 | 2/15 | Pakistan | | 150.00 | | | | | | |
| | 2/15 | 2/17 | Afghanistan | | 56.00 | | | | | | |
| | 2/17 | 2/19 | Qatar | | 860.00 | | | | | | |
| | 2/19 | 2/23 | Jordan | | 1,424.00 | | | | | | |
| Commercial airfare | | | | | | | 10,147.65 | | | | |
| Brooke Boyer | 2/13 | 2/15 | Pakistan | | 150.00 | | | | | | |
| | 2/15 | 2/17 | Afghanistan | | 56.00 | | | | | | |
| | 2/17 | 2/19 | Qatar | | 860.00 | | | | | | |
| | 2/19 | 2/23 | Jordan | | 1,424.00 | | | | | | |
| Commercial airfare | | | | | | | 11,203.85 | | | | |
| B.G. Wright | 2/13 | 2/15 | Pakistan | | 150.00 | | | | | | |
| | 2/15 | 2/17 | Afghanistan | | 56.00 | | | | | | |
| | 2/17 | 2/19 | Qatar | | 860.00 | | | | | | |
| | 2/19 | 2/23 | Jordan | | 1,424.00 | | | | | | |
| Commercial airfare | | | | | | | 16,228.65 | | | | |
| Jim Kulikowski | 2/19 | 2/21 | Italy | | 1,242,84 | | | | | | |
| Commercial airfare | | | | | | | 2,454.00 | | | | |
| Anne Marie Chotvacs | 2/19 | 2/21 | Italy | | 1,242,84 | | | | | | |
| Commercial airfare | | | | | | | 2,454.00 | | | | |
| Jennifer Miller | 2/16 | 2/19 | Qatar | | 1,290.00 | | | | | | |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| | 2/19 | 2/23 | Jordan | | 1,424.00 | | | | | | |
| Commercial airfare | | | | | | | 11,995.30 | | | | |
| Taxi | | | | | | | 175.00 | | | | |
| Megan Rosenbusch | | 2/17 | Travel Day | | 99.00 | | | | | | |
| | 2/18 | 2/20 | Germany | | 503.71 | | | | | | |
| | 2/20 | 2/21 | Italy | | 439.92 | | | | | | |
| | | 2/22 | Travel Day | | 60.75 | | | | | | |
| Commercial airfare | | | | | | | 2,708.10 | | | | |
| Taxi | | | | | | | 140.00 | | | | |
| Paul Terry | | 2/17 | Travel Day | | 99.00 | | | | | | |
| | 2/18 | 2/20 | Germany | | 503.71 | | | | | | |
| | 2/20 | 2/21 | Italy | | 439.92 | | | | | | |
| | | 2/22 | Travel Day | | 60.75 | | | | | | |
| Commercial airfare | | | | | | | 2,708.10 | | | | |
| Parking | | | | | | | 102.00 | | | | |
| Hon. Mario Diaz-Balart | 3/28 | 3/29 | Haiti | | 266.00 | | | | | | |
| Commercial airfare | | | | | | | 467.70 | | | | |
| Vehicle fuel | | | | | | | 94.60 | | | | |
| Misc. delegation costs | | | | | | | | | 355.00 | | |
| Hon. Adam Schiff | 3/27 | 3/29 | Lithuania | | 302.49 | | | | | | |
| Commercial airfare | | | | | | | 3,430.00 | | | | |
| Extra transportation | | | | | | | 11.76 | | | | |
| Misc. delegation costs | | | | | | | | | 601.00 | | |
| Committee total | | | | | 28,791.31 | | 104,877.31 | | 956.00 | | 134,624.64 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. HAROLD ROGERS, Chairman, Apr. 30, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Bill Flores | 1/17 | 1/22 | Guam | | | | | | | | |
| | 1/22 | 1/24 | Hong Kong | | | | | | | | |
| | 1/24 | 1/26 | Japan | | | | | | | | |
| | | | | | 625.93 | | 8,935.80 | | | | 9,561.73 |
| Committee total | | | | | 625.93 | | 8,935.80 | | | | 9,561.73 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. PAUL RYAN, Chairman, May 2, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. George Miller | 3/15 | 3/19 | Chile | | 1,759.00 | | | | | | 1,759.00 |
| | 3/19 | 3/22 | Bolivia | | 421.00 | | | | | | 421.00 |
| Hon. Rush Holt | 3/15 | 3/19 | Chile | | 1,759.00 | | | | | | 1,759.00 |
| | 3/19 | 3/22 | Bolivia | | 421.00 | | | | | | 421.00 |
| Leticia Mederos | 3/15 | 3/19 | Chile | | 1,082.00 | | | | | | 1,082.00 |
| | 3/19 | 3/22 | Bolivia | | 421.00 | | | | | | 421.00 |
| Hon. Frederica Wilson | 3/28 | 3/29 | Haiti | | 179.20 | | 502.70 | | | | 681.90 |
| Committee total | | | | | 6,042.20 | | 502.70 | | | | 6,544.90 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. JOHN KLINE, Chairman, Apr. 30, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. David McKinley | 3/14 | 3/19 | Afghanistan | | 425.82 | | 9,913.20 | | | | 10,339.02 |
| Committee total | | | | | 425.82 | | 9,913.20 | | | | 10,339.02 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

HON. FRED UPTON, Chairman, Apr. 25, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Stevan Pearce | 1/17 | 1/18 | Germany | | 338.14 | | (3) | | | | 338.14 |
| | 1/18 | 1/19 | Turkey | | 216.75 | | (3) | | | | 216.75 |
| | 1/19 | 1/20 | Jordan | | 355.41 | | (3) | | | | 355.41 |
| | 1/20 | 1/21 | United Arab Emirates | | 526.00 | | (3) | | | | 526.00 |
| | 1/21 | 1/23 | Ethiopia | | 800.00 | | (3) | | | | 800.00 |
| | 1/23 | 1/25 | Rwanda | | 776.00 | | (3) | | | | 776.00 |
| | 1/25 | 1/26 | Cape Verde | | 374.25 | | (3) | | | | 374.25 |
| Committee total | | | | | 3,386.55 | | | | | | 3,386.55 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. JEB HENSARLING, Chairman, Apr. 30, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Greg Simpkins | 3/16 | 3/22 | Ethiopia | | 1,309,85 | | 10,640.42 | | 697.83 | | 12,648.10 |
| Piero Tozzi | 3/15 | 3/22 | Ethiopia | | 1,514.00 | | 6,053.42 | | | | 7,567.42 |
| Ari Fridman | 3/16 | 3/18 | Egypt | | 580.25 | | 2,837.00 | | | | 3,417.25 |
| | 3/18 | 3/20 | Yemen | | 815.00 | | | | | | 815.00 |
| Andrew Veprek | 3/16 | 3/18 | Egypt | | 580.25 | | 2,837.00 | | | | 3,417.25 |
| | 3/18 | 3/20 | Yemen | | 815.00 | | | | | | 815.00 |
| Brent Woolfork | 3/16 | 3/18 | Egypt | | 583.00 | | 2,872.00 | | | | 3,455.00 |
| | 3/18 | 3/20 | Yemen | | 815.00 | | | | | | 815.00 |
| Hon. Ileana Ros-Lehtinen | 3/28 | 3/29 | Haiti | | 186.00 | | 502.70 | (4) | 2,248.00 | | 2,936.70 |
| Eddy Acevedo | 3/28 | 3/29 | Haiti | | 201.00 | | 1,111.20 | | | | 1,312.20 |
| Eric Jacobstein | 3/28 | 3/29 | Haiti | | 205.00 | | 1,096.70 | | | | 1,301.70 |
| Hon. Edward R. Royce | 2/16 | 2/17 | Japan | | 381.00 | | (3) | (4) | 10,528.43 | | 10,909.43 |
| | 2/17 | 2/18 | South Korea | | 248.00 | | | | | | 248.00 |
| | 2/18 | 2/20 | Taiwan | | 491.00 | | | | | | 491.00 |
| | 2/20 | 2/21 | Philippines | | 240.00 | | | (4) | 3,045.18 | | 3,285.18 |
| | 2/21 | 2/23 | China | | 962.00 | | | | | | 962.00 |
| Hon. Steve Chabot | 2/16 | 2/17 | Japan | | 292.00 | | | | | | 292.00 |
| | 2/17 | 2/18 | South Korea | | 282.00 | | | | | | 282.00 |
| | 2/18 | 2/20 | Taiwan | | 461.00 | | | | | | 461.00 |
| | 2/20 | 2/21 | Philippines | | 190.00 | | | | | | 190.00 |
| | 2/21 | 2/23 | China | | 880.00 | | | | | | 880.00 |
| Hon. Brad Sherman | 2/16 | 2/17 | Japan | | 398.50 | | | | | | 398.50 |
| | 2/17 | 2/18 | South Korea | | 327.00 | | | | | | 327.00 |
| | 2/18 | 2/20 | Taiwan | | 505.00 | | | | | | 505.00 |
| | 2/20 | 2/21 | Philippines | | 209.00 | | | | | | 209.00 |
| | 2/21 | 2/23 | China | | 847.00 | | | | | | 847.00 |
| Hon. Joseph Kennedy | 2/16 | 2/17 | Japan | | 187.00 | | | | | | 187.00 |
| | 2/17 | 2/18 | South Korea | | 354.52 | | | | | | 354.52 |
| | 2/18 | 2/20 | Taiwan | | 568.02 | | | | | | 568.02 |
| | 2/20 | 2/21 | Philippines | | 237.56 | | | | | | 237.56 |
| | 2/21 | 2/23 | China | | 930.23 | | | | | | 930.23 |
| Hon. Randy Weber | 2/16 | 2/17 | Japan | | 421.00 | | | | | | 177.00 |
| | 2/17 | 2/18 | South Korea | | 347.00 | | | | | | 150.00 |
| | 2/18 | 2/20 | Taiwan | | 561.00 | | | | | | 561.00 |
| | 2/20 | 2/21 | Philippines | | 230.00 | | | | | | 230.00 |
| | 2/21 | 2/23 | China | | 919.85 | | | | | | 919.85 |
| Hon. Luke Messer | 2/16 | 2/17 | Japan | | 391.00 | | | | | | 391.00 |
| | 2/17 | 2/18 | South Korea | | 327.00 | | | | | | 327.00 |
| | 2/18 | 2/20 | Taiwan | | 511.00 | | | | | | 511.00 |
| | 2/20 | 2/21 | Philippines | | 230.00 | | | | | | 230.00 |
| | 2/21 | 2/23 | China | | 870.00 | | | | | | 870.00 |
| Nien Su | 2/16 | 2/17 | Japan | | 291.00 | | | | | | 291.00 |
| | 2/17 | 2/18 | South Korea | | 237.00 | | | | | | 237.00 |
| | 2/18 | 2/20 | Taiwan | | 471.00 | | | | | | 471.00 |
| | 2/20 | 2/21 | Philippines | | 200.00 | | | | | | 200.00 |
| | 2/21 | 2/23 | China | | 830.00 | | | | | | 830.00 |
| Elizabeth Heng | 2/16 | 2/17 | Japan | | 420.47 | | | | | | 420.47 |
| | 2/17 | 2/18 | South Korea | | 328.67 | | | | | | 328.67 |
| | 2/18 | 2/20 | Taiwan | | 523.28 | | | | | | 523.28 |
| | 2/20 | 2/21 | Philippines | | 232.78 | | | | | | 232.78 |
| | 2/21 | 2/23 | China | | 920.49 | | | | | | 920.49 |
| J.J. Ong | 2/16 | 2/17 | Japan | | 410.00 | | | | | | 410.00 |
| | 2/17 | 2/18 | South Korea | | 337.00 | | | | | | 337.00 |
| | 2/18 | 2/20 | Taiwan | | 561.00 | | | | | | 561.00 |
| | 2/20 | 2/21 | Philippines | | 214.00 | | | | | | 214.00 |
| | 2/21 | 2/23 | China | | 905.00 | | | | | | 905.00 |
| Shane Wolfe | 2/16 | 2/17 | Japan | | 334.00 | | | | | | 334.00 |
| | 2/17 | 2/18 | South Korea | | 260.00 | | | | | | 260.00 |
| | 2/18 | 2/20 | Taiwan | | 380.00 | | | | | | 380.00 |
| | 2/20 | 2/21 | Philippines | | 204.00 | | | | | | 204.00 |
| | 2/21 | 2/23 | China | | 751.00 | | | | | | 751.00 |
| Hon. Ted Poe | 1/16 | 1/18 | Guatemala | | 307.97 | | 1,517.28 | | | | 1,825.25 |
| | 1/18 | 1/20 | Honduras | | 402.28 | | | | | | 402.28 |
| Luke Murry | 1/16 | 1/18 | Guatemala | | 438.77 | | 1,173.00 | | | | 1,611.77 |
| | 1/18 | 1/20 | Honduras | | 459.00 | | | | | | 459.00 |
| Tom Alexander | 1/21 | 1/15 | Spain | | 1,266.00 | | 1,499.50 | | | | 2,765.50 |
| Ari Fridman | 1/21 | 1/23 | Spain | | 593.00 | | 1,499.50 | | | | 2,092.50 |
| Andrew Veprek | 1/21 | 1/25 | Spain | | 1,266.00 | | 1,499.50 | | | | 2,765.50 |
| Daniel Silverberg | 1/21 | 1/23 | Spain | | 593.00 | | 1,499.50 | | | | 2,092.50 |
| Matt Zweig | 2/16 | 2/20 | Israel | | 1,889.00 | | 1,232.00 | | | | 3,121.00 |
| Mira Resnick | 2/16 | 2/20 | Israel | | 1,930.54 | | 1,232.12 | | | | 3,162.66 |
| Hon. William Keating | 1/19 | 1/22 | Russia | | 921.85 | | 17,304.54 | | | | 18,226.39 |
| Naz Durakoglu | 1/19 | 1/23 | Russia | | 2,005.66 | | 12,931.50 | | | | 14,937.16 |
| Hon. Adam Kinzinger | 1/31 | 2/2 | Germany | | 995.41 | | (3) | | | | 995.41 |
| Hon. Eliot Engel | 1/31 | 2/2 | Germany | | 995.41 | | (3) | | | | 995.41 |
| Hon. Ted Deutch | 1/31 | 2/2 | Germany | | 995.41 | | 553.16 | | | | 1,578.57 |
| Hon. William Keating | 1/31 | 2/2 | Germany | | 995.41 | | 3 | | | | 995.41 |
| Worku Gachou | 1/19 | 1/26 | Thailand | | 920.52 | | 5,417.40 | | 312.93 | | 6,650.85 |
| | 1/22 | 1/25 | Laos | | 585.99 | | | | | | 585.99 |
| Brent Woolfork | 1/19 | 1/26 | Thailand | | 915.52 | | 5,617.40 | | | | 6,532.92 |
| | 1/22 | 1/25 | Laos | | 556.00 | | | | | | 556.00 |
| Hon. Dana Rohrabacher | 1/17 | 1/18 | Austria | | 624.00 | | 11,902.98 | | 3,315.25 | | 15,842.23 |
| | 1/18 | 1/20 | Egypt | | 535.38 | | | | | | 535.38 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| | 1/20 | 1/23 | Israel | | 1,454.24 | | | | | | 1,454,24 |
| | 1/23 | 1/25 | Russia | | 976.65 | | | | | | 976.65 |
| | 1/25 | 1/26 | England | | 845.52 | | | (4) | 3,735.39 | | 4,580.91 |
| Hon. Steve Stockman | 1/18 | 1/20 | Egypt | | 535.38 | | 14,733.22 | | | | 15,268.60 |
| | 1/20 | 1/23 | Israel | | 1,454.24 | | | | | | 1,454.24 |
| | 1/23 | 1/25 | Russia | | 976.65 | | | | | | 976.65 |
| | 1/25 | 1/26 | England | | 1,029.52 | | | | | | 1,029.52 |
| Hon. Paul Cook | 1/17 | 1/18 | Austria | | 624.00 | | 11,902.98 | | | | 12,526.98 |
| | 1/18 | 1/20 | Egypt | | 535.38 | | | | | | 535.38 |
| | 1/20 | 1/23 | Israel | | 1,454.24 | | | | | | 1,454.24 |
| | 1/23 | 1/25 | Russia | | 976.65 | | | | | | 976.65 |
| | 1/25 | 1/26 | England | | 1,029.52 | | | | | | 1,029.52 |
| Paul Berkowitz | 1/17 | 1/18 | Austria | | 624.00 | | 11,590.98 | | | | 12,214.98 |
| | 1/18 | 1/20 | Egypt | | 535.38 | | | | | | 535.38 |
| | 1/20 | 1/23 | Israel | | 1,454.24 | | | | | | 1,454.24 |
| | 1/23 | 1/25 | Russia | | 976.65 | | | | | | 976.65 |
| Paul Berkowitz | 1/25 | 1/27 | England | | 1,029.52 | | | | | | 1,029.52 |
| | 2/16 | 2/18 | Bolivia | | 348.00 | | 3,036.00 | | | | 3,384.00 |
| | 2/18 | 2/20 | Ecuador | | 530.00 | | | | | | 530.00 |
| | 2/20 | 2/22 | Uruguay | | 412.00 | | | | | | 412.00 |
| Committee total | | | | | 68,208.12 | | 134,123.00 | | 23,833.01 | | 226,214.13 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Delegation costs.

HON. EDWARD R. ROYCE, Chairman, Apr. 30, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. F. James Sensenbrenner | 1/31 | 2/3 | Germany | | 1812.36 | | 423.73 | | 1303.04 | | 3539.13 |
| Committee total | | | | | 1812.36 | | 423.73 | | | | 3539.13 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. BOB GOODLATTE, Chairman, Apr. 30, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON NATURAL RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Jared Huffman | 3/16 | 3/18 | Chile | | 1,653.00 | | [3] +4,788.00 | | | | 6,441.00 |
| Committee total | | | | | 1653.00 | | 4788.00 | | | | 6441.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

HON. DOC HASTINGS, Chairman, Apr. 30, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Brien Beattie | 1/25 | 1/26 | Germany | | 362.00 | | 1656.00 | | | | 2018.00 |
| Hon. Cynthia Lummis | 1/17 | 1/18 | Austria | | 417.00 | | | | | | 417.00 |
| | 1/18 | 1/20 | Egypt | | 534.00 | | | | | | 534.00 |
| | 1/20 | 1/23 | Israel | | 1,828.00 | | | | | | 1,828.00 |
| | 1/23 | 1/25 | Russia | | 1,130.00 | | | | | | 1,130.00 |
| | 1/25 | 1/27 | United Kingdom | | 1,016.00 | | | | | | 1,016.00 |
| Hon. Jason Chaffetz | 2/12 | 2/14 | United Arab Emirates | | 793.00 | | | | | | 793.00 |
| | 2/15 | 2/16 | Papua New Guinea | | 314.00 | | 19,393.00 | | | | 19,707.00 |
| James Lewis | 2/12 | 2/14 | United Arab Emirates | | 923.00 | | | | | | 923.00 |
| | 2/15 | 2/16 | Papua New Guinea | | 354.00 | | 19,393.00 | | | | 19,747.00 |
| Hon. Stephen Lynch | 3/19 | 3/21 | Israel | | 982.00 | | | | | | 982.00 |
| | 3/21 | 3/23 | Afghanistan | | 56.00 | | | | | | 56.00 |
| | 3/23 | 3/24 | Ukraine | | 374.00 | | | | | | 374.00 |
| Hon. Michael Turner | 3/20 | 3/23 | Belgium | | 750.00 | | 1,871.00 | | | | 2,621.00 |
| Committee total | | | | | 9,833.00 | | 42,313.00 | | | | 52,146.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. DARRELL E. ISSA, Chairman, Apr. 30, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Angela Ellard | 2/20 | 2/26 | Singapore | | 1,925.00 | | 13,717.20 | | 291.11 | | 15,933.31 |
| Stephen Clayes | 2/20 | 2/26 | Singapore | | 1,862.77 | | 13,717.20 | | | | 15,579.97 |
| Jason Kearns | 2/21 | 2/26 | Singapore | | 1,622.29 | | 7,232.20 | | | | 8,854.49 |
| Hon. Erik Paulsen | 1/22 | 1/23 | Ethiopia | | 715.00 | | 7,553.94 | | | | 8,268.94 |
| | 1/23 | 1/25 | Rwanda | | 272.00 | | | | | | 272.00 |
| | 1/25 | 1/25 | Cape Verde | | 332.00 | | | | | | 332.00 |
| Hon. Sander Levin | 2/15 | 2/18 | Colombia | | 315.00 | | 510.90 | | 7,299.00 | | 8,124.90 |
| Committee total | | | | | 7,044.66 | | 42,731.44 | | 7,590.11 | | 57,365.61 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HON. DAVE CAMP, Chairman, Apr. 30, 2014.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Frank A. LoBiondo | 1/17 | 1/18 | Africa | | 508.00 | | | | | | |
| | 1/18 | 1/20 | Africa | | 552.00 | | | | | | |
| | 1/20 | 1/21 | Middle East | | 855.41 | | | | | | |
| | 1/21 | 1/24 | Africa | | 615.00 | | | | | | |
| Commercial airfare | | | | | | | 18,036.40 | | | | 20,066.91 |
| Frank Garcia | 1/17 | 1/18 | Africa | | 508.00 | | | | | | |
| | 1/18 | 1/20 | Africa | | 552.00 | | | | | | |
| | 1/20 | 1/21 | Middle East | | 355.41 | | | | | | |
| | 1/21 | 1/24 | Africa | | 558.94 | | | | | | |
| Commercial airfare | | | | | | | 16,816.10 | | | | 18,790.45 |
| Michael Bahar | 1/18 | 1/20 | Africa | | 552.00 | | | | | | |
| | 1/20 | 1/20 | Middle East | | | | | | | | |
| Commercial airfare | | | | | | | 9,560.10 | | | | 10,112.10 |
| Chelsey Campbell | 1/19 | 1/20 | Middle East | | 355.41 | | | | | | |
| Commercial airfare | | | | | | | 8,368.00 | | | | 8,723.41 |
| Hon. Michele Bachmann | 1/19 | 1/23 | Southeast Asia | | 1,141.00 | | | | | | |
| | 1/23 | 1/25 | Southeast Asia | | 679.32 | | | | | | |
| Commercial airfare | | | | | | | 22,705.20 | | | | 24,526.34 |
| Hon. James R. Langevin | 1/19 | 1/23 | Southeast Asia | | 1,001.25 | | | | | | |
| | 1/23 | 1/25 | Southeast Asia | | 679.32 | | | | | | |
| Commercial airfare | | | | | | | 19,534.00 | | | | 21,214.57 |
| Brooke Eisele | 1/19 | 1/23 | Southeast Asia | | 1,339.18 | | | | | | |
| | 1/23 | 1/25 | Southeast Asia | | 679.32 | | | | | | |
| Commercial airfare | | | | | | | 22,390.32 | | | | 24,408.82 |
| Carly Scott | 1/19 | 1/23 | Southeast Asia | | 1,257.82 | | | | | | |
| | 1/23 | 1/25 | Southeast Asia | | 679.32 | | | | | | |
| Commercial airfare | | | | | | | 22,864.50 | | | | 24,801.64 |
| Hon. Mike Rogers | 1/31 | 2/2 | Europe | | 1,314.65 | | | | | | |
| | | | | | | | (3) | | | | 1,314.65 |
| Hon. Mike Pompeo | 1/31 | 2/2 | Europe | | 995.41 | | | | | | |
| | | | | | | | (3) | | | | 995.41 |
| Hon. Mike Rogers | 2/7 | 2/10 | Europe | | 552.00 | | | | | | |
| Commercial airfare | | | | | | | 1,696.60 | | | | 2,248.60 |
| Darren Dick | 2/7 | 2/10 | Europe | | 552.00 | | | | | | |
| Commercial airfare | | | | | | | 1,064.50 | | | | 1,616.50 |
| Katie Wheelbarger | 2/18 | 2/21 | Middle East | | | | | | | | |
| Commercial airfare | | | | | | | 13,366.40 | | | | 13,366.40 |
| Chelsey Campbell | 2/18 | 2/21 | Middle East | | | | | | | | |
| | | | | | | | 13,366.70 | | | | 13,366.70 |
| Hon. Mike Pompeo | 2/17 | 2/19 | Africa | | 536.00 | | | | | | |
| | 2/19 | 2/20 | Africa | | 348.00 | | | | | | |
| | 2/20 | 2/21 | Africa | | 268.48 | | | | | | |
| Commercial airfare | | | | | | | 12,057.10 | | | | 13,209.58 |
| Hon. Mike Rogers | 2/17 | 2/19 | Africa | | 536.00 | | | | | | |
| | 2/19 | 2/20 | Africa | | 348.00 | | | | | | |
| | 2/20 | 2/21 | Africa | | 268.48 | | | | | | |
| Commercial airfare | | | | | | | 15,001.10 | | | | 16,153.58 |
| Hon. James A. Himes | 2/17 | 2/19 | Africa | | 536.00 | | | | | | |
| | 2/19 | 2/20 | Africa | | 348.00 | | | | | | |
| | 2/20 | 2/21 | Africa | | 268.48 | | | | | | |
| Commercial airfare | | | | | | | 13,427.10 | | | | 14,579.58 |
| Darren Dick | 2/17 | 2/19 | Africa | | 536.00 | | | | | | |
| | 2/19 | 2/20 | Africa | | 348.00 | | | | | | |
| | 2/20 | 2/21 | Africa | | 268.48 | | | | | | |
| Commercial airfare | | | | | | | 12,057.10 | | | | 13,209.58 |
| Geof Kahn | 2/17 | 2/19 | Africa | | 536.00 | | | | | | |
| | 2/19 | 2/20 | Africa | | 348.00 | | | | | | |
| | 2/20 | 2/21 | Africa | | 268.48 | | | | | | |
| Commercial airfare | | | | | | | 12,058.20 | | | | 13,210.68 |
| Amanda Rogers Thorpe | 2/17 | 2/19 | Africa | | 536.00 | | | | | | |
| | 2/19 | 2/20 | Africa | | 348.00 | | | | | | |
| | 2/20 | 2/21 | Africa | | 268.48 | | | | | | |
| Commercial airfare | | | | | | | 12,057.10 | | | | 13,209.58 |
| Shannon Stuart | 3/16 | 3/18 | Southeast Asia | | 474.00 | | | | | | |
| | 3/18 | 3/22 | Southeast Asia | | 942.24 | | | | | | |
| Commercial airfare | | | | | | | 15,049.70 | | | | 16,465.94 |
| Robert Minehart | 3/16 | 3/18 | Southeast Asia | | 474.00 | | | | | | |
| | 3/18 | 3/22 | Southeast Asia | | 942.24 | | | | | | |
| Commercial airfare | | | | | | | 15,049.70 | | | | 16,465.94 |
| Hon. Mike Rogers | 3/18 | 3/20 | Eastern Europe | | 732.81 | | | | | | |
| | 3/20 | 3/23 | Eastern Europe | | 911.33 | | | | | | |
| Commercial airfare | | | | | | | 13,203.70 | | | | 14,847.84 |
| Sarah Geffroy | 3/18 | 3/20 | Eastern Europe | | 732.81 | | | | | | |
| | 3/20 | 3/23 | Eastern Europe | | 911.33 | | | | | | |
| Commercial airfare | | | | | | | 12,008.50 | | | | 13,652.64 |
| Andy Keiser | 3/18 | 3/20 | Eastern Europe | | 732.81 | | | | | | |
| | 3/20 | 3/23 | Eastern Europe | | 911.33 | | | | | | |
| Commercial airfare | | | | | | | 12,008.50 | | | | 13,652.64 |
| Hon. Mike Pompeo | 3/28 | 3/29 | Eastern Europe | | 260.43 | | | | | | |
| | 3/29 | 4/1 | Eastern Europe | | 1,086.40 | | | | | | |
| Commercial airfare | | | | | | | 9,699.00 | | | | 11,045.83 |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2014—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Adam B. Schiff | 3/29 | 4/1 | Eastern Europe | | 1,086.40 | | | | | | |
| Commercial airfare | | | | | | | 6,352.40 | | | | 7,438.80 |
| Katie Wheelbarger | 3/28 | 3/29 | Eastern Europe | | 260.43 | | | | | | |
| | 3/29 | 4/1 | Eastern Europe | | 1,086.40 | | | | | | |
| Commercial airfare | | | | | | | 9,699.60 | | | | 11,046.43 |
| Linda Cohen | 3/29 | 4/1 | Eastern Europe | | 1,086.40 | | | | | | |
| Commercial airfare | | | | | | | 11,487.60 | | | | 12,574.00 |
| Committee totals | | | | | | | | | | | 386,315.14 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

HON. MIKE ROGERS, Chairman, Apr. 30, 2014.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

5564. A letter from the Assistant Secretary, Special Operations and Low-Intensity Conflict, Department of Defense, transmitting the Department's Annual Report for FY 2013 regarding the training, and its associated expenses, of U.S. Special Operations Forces (SOF) with friendly foreign forces for the period ending September 30, 2013; to the Committee on Armed Services.

5565. A letter from the Under Secretary, Department of Defense, transmitting the annual report on operations of the National Defense Stockpile (NDS) in accordance with section 11(b) of the Strategic and Critical Materials Stock Piling Act as amended (50 U.S.C. 98 et seq.) detailing NDS operations during FY 2015 and for the succeeding 4 years (FY 2016-2019); to the Committee on Armed Services.

5566. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a report on The Availability and Price of Petroleum and Petroleum Products Produced in Countries Other Than Iran; to the Committee on Energy and Commerce.

5567. A letter from the Secretary, Department of Health and Human Services, transmitting the FY 2013 financial report for the Biosimilar User Fee Act; to the Committee on Energy and Commerce.

5568. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Airplanes [Docket No.: FAA-2014-0169; Directorate Identifier 2014-NM-020-AD; Amendment 39-17808; AD 2014-06-04] (RIN: 2120-AA64) received April 16, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5569. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; M7 Aerospace LLC Airplanes [Docket No.: FAA-2013-1057; Directorate Identifier 2013-CE-041-AD; Amendment 39-17805; AD 2014-06-01] (RIN: 2120-AA64) received April 16, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5570. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Boeing Company Airplanes [Docket No.: FAA-2013-0326; Directorate Identifier 2012-NM-089-AD; Amendment 39-17786; AD 2014-05-13] (RIN: 2120-AA64) received April 16, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5571. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier, Inc. Airplanes [Docket No.: FAA-2013-0798; Directorate Identifier 2013-NM-087-AD; Amendment 39-17796; AD 2014-05-23] (RIN: 2120-AA64) received April 16, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5572. A letter from the Paralegal Specialist, Department of Transportation, transmitting the Department's final rule — Amendment to Class B Airspace Area; Detroit, MI [Docket No.: FAA-2013-0079; Airspace Docket No. 09-AWA-4] (RIN: 2120-AA66) received April 16, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5573. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Amendments to Delegation of Authority Provisions in the Prevention of Significant Deterioration Program [EPA-HQ-OAR-2010-0943; FRL-9909-19-OAR] (RIN: 2060-AQ55) received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5574. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Revisions to Fossil Fuel Utilization Facilities and Source Registration Regulations and Industrial Performance Standards for Boilers [EPA-R01-OAR-2012-0951; FRL-9800-2] received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5575. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; New York State; Redesignation of Areas for 1997 Annual and 2006 24-Hour Fine Particulate Matter and Approval of the Associated Maintenance Plan [EPA-R02-OAR-2013-0592; FRL-9909-65-Region 2] received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5576. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; South Dakota; Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revisions [EPA-R08-OAR-2014-0049; FRL-9909-08-Region 8] received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5577. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revision for GP Big Island, LLC [EPA-R03-OAR-2013-0191; FRL-9909-60-Region 3] received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5578. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Redesignation of the Milwaukee-Racine 2006 24-Hour Fine Particle Nonattainment Area to Attainment [EPA-R05-OAR-2012-0464; FRL-9909-50-Region 5] received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5579. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Commonwealth of the Northern Mariana Islands; Prevention of Significant Deterioration; Special Exemptions from Requirements of the Clean Air Act [EPA-R09-OAR-2013-0697; FRL-9909-18-Region 9] received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5580. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; States of Arkansas and Louisiana; Clean Air Interstate Rule State Implementation Plan Revisions [EPA-R06-OAR-2009-0594; FRL-9909-56-Region 6] received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5581. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Linuron; Pesticide Tolerances; Technical Correction [EPA-HQ-OPP-2012-0791-9908-83] received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5582. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, El Dorado County Air Quality Management District [EPA-R09-OAR-2013-0683; FRL-9909-66-Region 9] received April 17, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5583. A letter from the Assistant Secretary, Department of Defense, transmitting a report on Utilization of Contributions to the Cooperative Threat Reduction Program; to the Committee on Foreign Affairs.

5584. A letter from the Secretary, Department of Health and Human Services, transmitting annual financial report as required by the Generic Drug User Fee Act for FY 2013; to the Committee on Energy and Commerce.

5585. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a report concerning methods employed by the Government of Cuba to comply with the United States-Cuba September 1994 ''Joint Communique'' and the treatment by the Government of Cuba of persons returned to Cuba in accordance with the United States-Cuba May 1995 ''Joint Statement'', together known as the Migration Accords; to the Committee on Foreign Affairs.

5586. A letter from the Director, Office of Civil Rights, Department of Commerce, transmitting the Department's annual report for FY 2013 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

5587. A letter from the Inspector General, Department of Health and Human Services, transmitting a report entitled, ''U.S. Department of Health and Human Services Met Many Requirements of the Improper Payments Information Act of 2002 but Did Not Fully Comply for Fiscal Year 2013''; to the Committee on Oversight and Government Reform.

5588. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's annual report for FY 2013 prepared in accordance with the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Oversight and Government Reform.

5589. A letter from the Principal Deputy Assistant Attorney General, Department of Justice, transmitting the administration of the Foreign Agents Registration Act of 1938, as amended for the six month period ending June 30, 2013, pursuant to 22 U.S.C. 621; to the Committee on the Judiciary.

5590. A letter from the Auditor, Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for the years ended December 31, 2013 and 2012, pursuant to 36 U.S.C. 1101(19) and 1103; to the Committee on the Judiciary.

5591. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting Memorandum of Understanding Between the United States and the Government of the Republic of Bulgaria Concerning the Imposition of Import Restrictions on Archaeological Materials Representing the Cultural Heritage of Bulgaria, pursuant to 19 U.S.C. 2602(g)(1); to the Committee on Ways and Means.

5592. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting report to Congress on The Proliferation Security Initiative (PSI) Budget Plan and Review P.L. 110-53, Section 1821(b)(2); jointly to the Committees on Foreign Affairs and Armed Services.

5593. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled, ''Finalizing Medicare Regulations under Section 902 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) for Calendar Year 2013''; jointly to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CAMP: Committee on Ways and Means. H.R. 4058. A bill to prevent and address sex trafficking of youth in foster care; with an amendment (Rept. 113–441). Referred to the Committee of the Whole House on the state of the Union.

Mr. SESSIONS: Committee on Rules. House Resolution 567. Resolution providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi (Rept. 113–442). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 575. Resolution providing for consideration of the resolution (H. Res. 567) providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi (Rept. 113–443). Referred to the House Calendar.

Ms. FOXX: Committee on Rules. House Resolution 576. Resolution providing for consideration of the bill (H.R. 10) to amend the charter school program under the Elementary and Secondary Education Act of 1965; relating to consideration of the bill (H.R. 4438) to amend the Internal Revenue Code of 1986 to simplify and make permanent the research credit; and for other purposes (Rept. 113–444). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ROYCE:

H.R. 4586. A bill to ensure that the provision of foreign assistance does not contribute to human trafficking and to combat human trafficking by requiring greater transparency in the recruitment of foreign workers outside of the United States, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Foreign Affairs, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROS-LEHTINEN (for herself, Mr. DIAZ-BALART, Mr. SALMON, Mr. SIRES, Mr. DEUTCH, Mr. MURPHY of Florida, Mr. STOCKMAN, Mr. GARCIA, and Ms. BROWN of Florida):

H.R. 4587. A bill to impose targeted sanctions on individuals responsible for carrying out or ordering human rights abuses against the citizens of Venezuela, and for other purposes; to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BLACKBURN (for herself and Ms. ESHOO):

H.R. 4588. A bill to amend the Communications Act of 1934 to deny the right to grant retransmission consent to a television broadcast station if an AM or FM radio broadcast station licensed to the same licensee transmits a sound recording without providing compensation for programming; to the Committee on Energy and Commerce.

By Mr. REICHERT (for himself and Mr. MCDERMOTT):

H.R. 4589. A bill to amend the Internal Revenue Code of 1986 to exclude dividends from controlled foreign corporations from the definition of personal holding company income for purposes of the personal holding company rules; to the Committee on Ways and Means.

By Mr. LABRADOR (for himself and Mr. SOUTHERLAND):

H.R. 4590. A bill to exempt certain 16 and 17 year-old children employed in logging or mechanized operations from child labor laws; to the Committee on Education and the Workforce.

By Mr. BARROW of Georgia:

H.R. 4591. A bill to establish a national strategy for identifying job training needs to increase opportunities for technical school training and promote hiring; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GERLACH (for himself and Mr. HIMES):

H.R. 4592. A bill to amend the Public Health Service Act to improve the diagnosis and treatment of hereditary hemorrhagic telangiectasia, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEUGEBAUER (for himself, Mr. CULBERSON, Mr. GINGREY of Georgia, Mr. CARTER, and Mr. STOCKMAN):

H.R. 4593. A bill to prohibit the Department of the Treasury from assigning tax statuses to organizations based on their political beliefs and activities; to the Committee on Ways and Means.

By Mr. BLUMENAUER (for himself, Mr. KINZINGER of Illinois, Ms. GABBARD, Mr. HASTINGS of Florida, Mr. POE of Texas, Mr. STIVERS, Mr. SMITH of Washington, Mr. HUNTER, Mr. ENGEL, and Mr. REICHERT):

H.R. 4594. A bill to provide for a 1-year extension of the Afghan Special Immigrant Visa Program, and for other purposes; to the Committee on the Judiciary.

By Mr. BRALEY of Iowa:

H.R. 4595. A bill to encourage school bus safety; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COHEN (for himself and Mr. MCDERMOTT):

H.R. 4596. A bill to limit investor and homeowner losses in foreclosures, and for other purposes; to the Committee on the Judiciary.

By Mr. CULBERSON (for himself, Mr. CARTER, Mr. STOCKMAN, Mr. NEUGEBAUER, Mr. GINGREY of Georgia, and Mr. CHABOT):

H.R. 4597. A bill to amend title 18, United States Code, to prohibit the intentional discrimination of a person or organization by an employee of the Internal Revenue Service; to the Committee on the Judiciary.

By Mr. GARCIA:

H.R. 4598. A bill to provide the heads of agencies with direct-hire authority to appoint qualified candidates to positions relating to information technology, and for other purposes; to the Committee on Oversight and Government Reform.

By Mr. HUNTER (for himself, Mr. FRANKS of Arizona, Mrs. ELLMERS, Mr. GRIFFIN of Arkansas, Mr. POE of Texas, Mr. BRADY of Texas, Mr. SHUSTER, Mr. POMPEO, Mr. MILLER of Florida, Mr. BUCSHON, Mr. NUNES, Mr. BRIDENSTINE, Mr. GOHMERT, Mr.

STIVERS, Mr. BISHOP of Utah, Mr. GIBBS, Mr. BROOKS of Alabama, Mr. GRAVES of Missouri, Mr. PALAZZO, Mr. HARPER, Mr. COOK, Mr. WITTMAN, Mr. HALL, and Mr. KINZINGER of Illinois):

H.R. 4599. A bill to authorize the use of force against those nations, organizations, or persons responsible for the attack against United States personnel in Benghazi, Libya; to the Committee on Foreign Affairs.

By Mr. KING of Iowa (for himself, Mrs. BACHMANN, Mr. CHABOT, Mr. BROUN of Georgia, Mrs. BLACKBURN, Mr. BROOKS of Alabama, Mr. BURGESS, Mr. FRANKS of Arizona, Mr. GINGREY of Georgia, Mr. HUELSKAMP, Mr. HUDSON, Mr. KINGSTON, Mr. ISSA, Mr. MCHENRY, Mr. WEBER of Texas, Mr. WILSON of South Carolina, Mr. COTTON, Mr. YOHO, Mr. FORTENBERRY, Mr. HARRIS, Mr. FLEMING, and Mr. DUNCAN of South Carolina):

H.R. 4600. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums for insurance which constitutes medical care; to the Committee on Ways and Means.

By Ms. KUSTER:

H.R. 4601. A bill to provide additional funding for the Highway Trust Fund, and for other purposes; to the Committee on Oversight and Government Reform, and in addition to the Committees on Ways and Means, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STOCKMAN:

H.R. 4602. A bill to change the tax status of virtual currencies from property to foreign currency; to the Committee on Ways and Means.

By Mr. TURNER:

H.R. 4603. A bill to reauthorize chapter 40 of title 28, United States Code; to the Committee on the Judiciary.

By Mr. WESTMORELAND (for himself, Mr. DUFFY, Mrs. BACHMANN, Mr. LONG, Mr. POSEY, Mr. BENTIVOLIO, and Mr. LUETKEMEYER):

H.R. 4604. A bill to amend the Consumer Financial Protection Act of 2010 to create a consumer opt-out list for data collected by the Bureau, to put time limits on data held by the Bureau, and for other purposes; to the Committee on Financial Services.

By Mr. ISSA:

H. Res. 574. A resolution recommending that the House of Representatives find Lois G. Lerner, former Director, Exempt Organizations, Internal Revenue Service, in contempt of Congress for refusal to comply with a subpoena duly issued by the Committee on Oversight and Government Reform; considered and agreed to.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. ROYCE:

H.R. 4586.

Congress has the power to enact this legislation pursuant to the following:

Article 1 Section 8 of the Constitution.

By Ms. ROS-LEHTINEN:

H.R. 4587.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8 of the Constitution

By Mrs. BLACKBURN:

H.R. 4588.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, Clause 3 of the U.S. Constitution.

By Mr. REICHERT:

H.R. 4589.

Congress has the power to enact this legislation pursuant to the following:

Pursuant to Clause 1 of Section 8 of Article I of the United States Constitution and Amendment XVI of the United States Constitution

By Mr. LABRADOR:

H.R. 4590.

Congress has the power to enact this legislation pursuant to the following:

This legislation has been written pursuant to Article I, Section 8, Clause 3, which gives Congress the authority ''To Regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;''

By Mr. BARROW of Georgia:

H.R. 4591.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8

By Mr. GERLACH

H.R. 4592.

Congress has the power to enact this legislation pursuant to the following:

The Congress enacts this bill pursuant to Clause 18 of Section 8 of Article I of the United States Constitution.

By Mr. NEUGEBAUER:

H.R. 4593.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 18:

The Congress shall have Power to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof.

By Mr. BLUMENAUER:

H.R. 4594.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the U.S. Constitution

By Mr. BRALEY of Iowa:

H.R. 4595.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 18 of the United States Constitution.

By Mr. COHEN:

H.R. 4596.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, clause 4 of the United States Constitution, giving Congress the authority to establish uniform bankruptcy laws.

By Mr. CULBERSON:

H.R. 4597.

Congress has the power to enact this legislation pursuant to the following:

The 14th Amendment, section 5; Article 1, sections 3 and 18.

By Mr. GARCIA:

H.R. 4598.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to clause 18 of section 8 of article I of the U.S. Constitution.

By Mr. HUNTER:

H.R. 4599.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8 of the United States Constitution, which grants Congress the power provide for the common defense of the United States.

By Mr. KING of Iowa:

H.R. 4600.

Congress has the power to enact this legislation pursuant to the following:

The bill is enacted pursuant to Congress' powers to lay and collect Taxes, Duties, Imposts, and Excises under Article I, Section 8, of the United States Constitution.

By Ms. KUSTER:

H.R. 4601.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1 (relating to the power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States), and Article I, Section 8, Clause 7 (relating to the establishment of Post Roads) of the United States Constitution.

By Mr. STOCKMAN:

H.R. 4602.

Congress has the power to enact this legislation pursuant to the following:

Article 1. Section 8.

''The Congress shall have Power To lay and collect Taxes''

By Mr. TURNER:

H.R. 4603.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 9 and Article III, Section 1 of the Constitution of the United States of America

By Mr. WESTMORELAND:

H.R. 4604.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, of the United States Constitution.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions, as follows:

H.R. 24: Mr. GARRETT, Mr. PETRI, Mr. WILLIAMS, Mr. BROOKS of Alabama, Mr. PITTS, Mr. CRENSHAW, Mr. SMITH of New Jersey, Mr. SHIMKUS, Ms. GRANGER, and Mrs. WALORSKI.

H.R. 29: Mr. MCDERMOTT.

H.R. 36: Mr. WOODALL.

H.R. 460: Ms. GABBARD, Mr. BLUMENAUER, Ms. CLARK of Massachusetts, Mr. LANCE, Mr. HASTINGS of Florida, and Mr. HINOJOSA.

H.R. 498: Ms. DELBENE, Mr. SMITH of Texas, Mr. BUCHANAN, and Mr. KILMER.

H.R. 523: Ms. MENG.

H.R. 630: Ms. CLARK of Massachusetts.

H.R. 647: Ms. SLAUGHTER.

H.R. 713: Mr. SMITH of New Jersey.

H.R. 755: Mr. PRICE of Georgia.

H.R. 831: Mr. BUCSHON and Mr. COHEN.

H.R. 855: Mr. COLE.

H.R. 1009: Mr. GIBSON.

H.R. 1015: Mr. HUNTER, Mr. MASSIE, and Mr. PASTOR of Arizona.

H.R. 1070: Ms. LOFGREN and Mr. MCDERMOTT.

H.R. 1074: Mr. CARTER, Mr. PASCRELL, Mr. KENNEDY, Mr. LEVIN, and Mr. LONG.

H.R. 1097: Mr. PALAZZO.

H.R. 1130: Ms. VELÁZQUEZ and Mr. BRADY of Pennsylvania.

H.R. 1141: Mr. BARR.

H.R. 1217: Ms. HERRERA BEUTLER and Mr. DOGGETT.

H.R. 1250: Ms. GABBARD and Mr. DIAZ-BALART.

H.R. 1309: Mr. GRIFFIN of Arkansas.

H.R. 1428: Mr. BUTTERFIELD.

H.R. 1449: Mr. BROUN of Georgia, Mr. FLORES, and Mr. LOBIONDO.

H.R. 1518: Mr. PERRY.

H.R. 1527: Mr. WAXMAN and Mr. RAHALL.
H.R. 1616: Mr. FITZPATRICK.
H.R. 1717: Mrs. HARTZLER.
H.R. 1779: Mr. MCHENRY.
H.R. 1795: Mr. YOHO.
H.R. 1801: Mr. FITZPATRICK, Mr. BISHOP of Georgia, and Mr. VAN HOLLEN.
H.R. 1812: Mr. AUSTIN SCOTT of Georgia and Mr. STEWART.
H.R. 1830: Mr. CUMMINGS, Ms. WILSON of Florida, Ms. CHU, Mr. SCHRADER, RUPPERSBERGER, Mr. GUTIÉRREZ, Mr. CONNOLLY, Mr. FATTAH, Mrs. WAGNER, Mr. LONG, Mr. GARCIA, and Mr. BRADY of Pennsylvania.
H.R. 1852: Mr. VELA.
H.R. 1937: Mr. PETRI.
H.R. 1998: Mr. JOLLY.
H.R. 2001: Mr. FORTENBERRY and Mr. LEWIS.
H.R. 2012: Ms. DELAURO.
H.R. 2130: Ms. ESHOO.
H.R. 2144: Mrs. DAVIS of California and Mr. BARROW of Georgia.
H.R. 2203: Ms. CHU and Mr. KILMER.
H.R. 2283: Mr. PAULSEN, Mr. KLINE, Mr. ROKITA, Mr. ISRAEL, Mr. COLE, and Mr. LANGEVIN.
H.R. 2387: Mr. OWENS, Mr. JEFFRIES, and Mr. SHERMAN.
H.R. 2499: Ms. CLARK of Massachusetts.
H.R. 2652: Mr. SWALWELL of California.
H.R. 2673: Mr. GARY G. MILLER of California.
H.R. 2717: Mr. GENE GREEN of Texas.
H.R. 2841: Mr. SCHNEIDER, Mr. HONDA, Mr. DEFAZIO, and Mr. BUTTERFIELD.
H.R. 2901: Ms. MCCOLLUM, Mr. SMITH of Washington, Mr. SALMON, Mr. ROSKAM, Ms. ESTY, Mr. WOLF, Mrs. MCCARTHY of New York, Mr. PITTENGER, and Mr. FARR.
H.R. 2921: Mr. BENTIVOLIO.
H.R. 2939: Mr. ROYCE.
H.R. 3116: Mr. ISRAEL.
H.R. 3121: Mr. ROONEY.
H.R. 3150: Ms. ESHOO.
H.R. 3211: Mr. CRENSHAW.
H.R. 3330: Mr. CICILLINE.
H.R. 3335: Mr. BILIRAKIS.
H.R. 3361: Mr. LANCE, Mr. PETERS of Michigan, Mr. GOSAR, Ms. DEGETTE, Mr. SERRANO, and Ms. HERRERA BEUTLER.
H.R. 3407: Ms. CASTOR of Florida.
H.R. 3408: Mr. BARR.
H.R. 3413: Mr. MULVANEY.
H.R. 3494: Mr. HASTINGS of Florida, Mr. KILMER, and Ms. ESTY.
H.R. 3499: Mr. WALZ.
H.R. 3530: Mr. DIAZ-BALART and Mr. LANKFORD.
H.R. 3544: Mrs. BACHMANN.
H.R. 3610: Mr. DIAZ-BALART, Ms. TITUS, and Mr. LANKFORD.
H.R. 3747: Mr. RODNEY DAVIS of Illinois.
H.R. 3782: Ms. DELBENE.
H.R. 3836: Mr. CHABOT and Mr. LONG.
H.R. 3855: Mr. CARSON of Indiana.
H.R. 3862: Mr. PETERSON.
H.R. 3877: Ms. SCHAKOWSKY.
H.R. 3930: Mr. PETERS of Michigan, Mr. PRICE of Georgia, Mr. VALADAO, Ms. TITUS, Mr. BARLETTA, and Mr. POSEY.
H.R. 3991: Mr. FARENTHOLD, Mr. LAMALFA, Mr. RENACCI, Mr. HASTINGS of Washington, and Mr. DEFAZIO.
H.R. 3992: Ms. SHEA-PORTER.
H.R. 4031: Mr. TIPTON, Mr. THOMPSON of Pennsylvania, Mr. LONG, and Mr. CHABOT.
H.R. 4040: Mr. NEAL.
H.R. 4056: Mrs. BROOKS of Indiana.
H.R. 4058: Ms. ESTY, Mr. BARLETTA, and Mr. DIAZ-BALART.
H.R. 4079: Mr. COOPER.
H.R. 4091: Mr. RIBBLE.
H.R. 4092: Mr. QUIGLEY, Ms. LOFGREN, and Ms. ESHOO.
H.R. 4136: Ms. MCCOLLUM, Mr. DEFAZIO, and Mr. DELANEY.
H.R. 4156: Mr. HASTINGS of Florida.
H.R. 4158: Mr. BISHOP of Utah, Mrs. CAPITO, Mr. MARCHANT, Mr. SMITH of Texas, and Mr. TURNER.
H.R. 4162: Ms. ESHOO.
H.R. 4200: Mr. MURPHY of Florida.
H.R. 4208: Mr. HORSFORD.
H.R. 4213: Mr. COHEN and Mr. CALVERT.
H.R. 4219: Mr. WOMACK.
H.R. 4225: Mr. DIAZ-BALART.
H.R. 4236: Mr. JONES.
H.R. 4285: Mr. TAKANO.
H.R. 4305: Mr. LONG and Mr. WEBER of Texas.
H.R. 4318: Mr. TIBERI.
H.R. 4347: Ms. MENG and Mr. BILIRAKIS.
H.R. 4351: Mr. COSTA and Mr. BISHOP of Georgia.
H.R. 4365: Mr. COLE.
H.R. 4372: Ms. LEE of California and Mr. LOWENTHAL.
H.R. 4383: Mr. CRAMER.
H.R. 4387: Mr. ROSS.
H.R. 4395: Mr. RANGEL and Mr. HASTINGS of Florida.
H.R. 4398: Mr. MARCHANT
H.R. 4421: Mr. LEVIN.
H.R. 4437: Mr. AUSTIN SCOTT of Georgia.
H.R. 4440: Ms. SCHWARTZ, Mr. POLIS, Mr. TIERNEY and Mr. FARR.
H.R. 4443: Mr. COLLINS of New York, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CROWLEY, Ms. CLARKE of New York, Mr. HANNA, and Mr. MAFFEI.
H.R. 4450: Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 4465: Mr. SCALISE, Mr. AUSTIN SCOTT of Georgia, and Mr. BROOKS of Alabama.
H.R. 4491: Mr. TIPTON, Mr. ROSS, Mr. JOLLY, Mr. NUGENT, Mr. YOHO, Mr. WESTMORELAND, Mr. REICHERT, and Mr. LONG.
H.R. 4510: Mr. KING of New York, Mr. SCHNEIDER, Mr. GARRETT, Mr. PETERS of Michigan, Mr. SHERMAN, and Mr. PITTENGER.
H.R. 4521: Mr. MCHENRY.
H.R. 4531: Mr. BARTON, Mr. CARTER, Mr. CONAWAY, Mr. FLORES, Mr. GOHMERT, Ms. GRANGER, Mr. HALL, Mr. HENSARLING, Mr. NEUGEBAUER, Mr. POE of Texas, Mr. THORNBERRY, Mr. WILLIAMS, Mr. LANKFORD, Mr. COLE, Mr. SALMON, Mr. DUNCAN of South Carolina, Mr. PRICE of Georgia, Mr. FLEMING, Mr. JOYCE, Mr. POSEY, Mr. HUELSKAMP, Mrs. BLACKBURN, Mr. WEBER of Texas, and Mr. ROE of Tennessee.
H.R. 4568: Mr. MULVANEY.
H.R. 4578: Ms. MOORE, Ms. HAHN, Mr. RANGEL, Mr. MCDERMOTT, and Mr. MCGOVERN.
H.R. 4582: Ms. BROWNLEY of California, Ms. DELBENE, Mr. MCGOVERN, Mr. CUMMINGS, Ms. HAHN, Mr. NEAL, and Mr. KEATING.
H.J. Res. 34: Ms. SPEIER.
H.J. Res. 113: Mr. SCHRADER and Mrs. CHRISTENSEN.
H. Con. Res. 69: Mr. DOYLE.
H. Res. 356: Mr. WALZ.
H. Res. 445: Mr. CAMPBELL, Mr. REED, Mr. LANCE, Mr. WESTMORELAND, Mr. STIVERS, Mr. PEARCE, Mr. COTTON, Mr. WEBER of Texas, Mrs. BACHMANN, Mr. GERLACH, Mr. TIBERI, Mr. MCHENRY, Mr. KING of New York, Mr. LATTA, Mr. WALBERG, Mr. AUSTIN SCOTT of Georgia, Mr. TIPTON, Mr. BENTIVOLIO, Mr. RODNEY DAVIS of Illinois, Mrs. CAPITO, Mr. JOHNSON of Ohio, and Mr. BRADY of Texas.
H. Res. 489: Mr. SIRES.
H. Res. 508: Mr. FARR.
H. Res. 522: Mr. MORAN, Mr. CONNOLLY, Mr. BISHOP of Georgia, Mr. LATHAM, Mr. KENNEDY, Mr. FITZPATRICK, Mr. PETRI, Mr. JOYCE, and Mr. GENE GREEN of Texas.
H. Res. 525: Mr. YARMUTH and Ms. ESTY.
H. Res. 538: Mr. HANNA.
H. Res. 540: Mr. KING of New York.
H. Res. 561: Mr. MURPHY of Florida and Mr. CARNEY.
H. Res. 562: Mr. PERRY, Mr. WEBER of Texas, Mr. ADERHOLT, Mr. MEADOWS, Mr. POMPEO, Mr. SHIMKUS, Mr. KINZINGER of Illinois, Ms. ROS-LEHTINEN, Mr. WILSON of South Carolina, Mr. THOMPSON of Pennsylvania, Mr. CHABOT, Mr. SMITH of New Jersey, Mr. LAMBORN, Mr. WOLF, Mr. SALMON, and Mr. DUNCAN of South Carolina.
H. Res. 565: Mr. KELLY of Pennsylvania.
H. Res. 571: Mr. JOYCE, Mr. COOK, Mr. SIMPSON, Mr. POCAN, Mr. BARLETTA, and Mr. WALZ.
H. Res. 573: Mr. LEVIN, Ms. NORTON, Mr. DEUTCH, Mrs. NOEM, Mr. COHEN, Mrs. BEATTY, Mr. BISHOP of Georgia, Ms. BROWN of Florida, Ms. CLARKE of New York, Mr. CLEAVER, Mr. CLYBURN, Mr. AL GREEN of Texas, Mr. HASTINGS of Florida, Ms. JACKSON LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KELLY of Illinois, Mr. LEWIS, Mr. PAYNE, Mr. RANGEL, Mr. RICHMOND, Mr. SCOTT of Virginia, Mr. THOMPSON of Mississippi, Ms. SPEIER, Mr. VAN HOLLEN, Mr. VARGAS, Mr. WEBER of Texas, Mr. TIERNEY, Mr. CLAY, Mr. CUMMINGS, Ms. EDWARDS, Mr. ELLISON, Mr. HORSFORD, Mr. JEFFRIES, Mr. JOHNSON of Georgia, Ms. MOORE, Mr. DAVID SCOTT of Georgia, Ms. WATERS, Ms. HAHN, Mr. GARCIA, Ms. DUCKWORTH, Mr. KINZINGER of Illinois, Mr. SERRANO, Mr. FITZPATRICK, and Mrs. CHRISTENSEN.

## CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative Kline, or a designee, to H.R. 10, Success and Opportunity through Quality Charter Schools Act, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, SECOND SESSION

Vol. 160 WASHINGTON, WEDNESDAY, MAY 7, 2014 No. 68

# Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable EDWARD J. MARKEY, a Senator from the Commonwealth of Massachusetts.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, from whom all holy desires come and all good counsels do proceed, let Your presence be felt in our midst today. Crown the deliberations of our Senators with Your wisdom as You provide them with insights that will make a better world. Lord, help them to take charge of this day, meeting its joys with gratitude, its challenges with fortitude, and its doubts with faith. Guard them from error; deliver them from evil. Make them faithful servants of Your providential purposes, giving them consciences void of offense as they seek to glorify You.

We pray in Your faithful Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable EDWARD J. MARKEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, May 7, 2014.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD J. MARKEY, a Senator from the Commonwealth of Massachusetts, to perform the duties of the Chair.

PATRICK J. LEAHY,
*President pro tempore.*

Mr. MARKEY thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican leader, the Senate will resume consideration of the motion to proceed to the Energy Savings and Industrial Competitiveness Act, postcloture.

Postcloture time will expire at about a quarter to 6 this evening.

Senators will be notified whether and if any votes are scheduled today.

## CLIMATE CHANGE

Mr. REID. Mr. President, it is not often I agree with what the Koch brothers say or do. Their radical agenda is normally so far out of the mainstream that it makes opposition to their agenda very easy.

So imagine my surprise when last week I read a quote from a Koch spokesperson in a Kansas newspaper. That is where they are based. Here is what the Koch brothers said:

We are not experts on climate change. We do believe there should be free and open debate on the climate issue and it should be based on sound science and intellectual honesty.

They go on to say:

The debate should take place among the scientific community, examining all points of view and void of politics, personal attacks and partisan agendas.

Listen to what they said: sound science and intellectual honesty from the Koch brothers on this issue.

Their statement sounds pretty good. I agree that the Koch brothers, Koch Industries, and their myriad political organizations are not experts on climate change—and that is an understatement.

I also agree that the debate on climate change should be based on sound science. In fact, the sound science has long been debated. The Presiding Officer has spent 38 years in Congress and has been one of the leading proponents of recognizing over the decades how our climate is changing. Everyone sees it is changing but not the Koch brothers, and I will explain a little more.

The sound science has long been debated and has reached a clear, unambiguous conclusion that climate change is here and it is real.

Of course Charles and David Koch know the debate on climate change is already taking place within the science community. They know that. The debate has been open and it has been free.

The overwhelming evidence proves that pollution is causing climate change.

No one has to take my word for it, including the multi-zillionaire Koch brothers—the two richest people in the world.

Just yesterday, the White House—not the White House; they announced it—released a report and an assessment that was authored by more than 300 scientists. Newspapers all over the world are talking about this.

One of the Hill newspapers we all read has a picture on the front that is stunning. It shows a picture of a man walking near a portion of a scenic highway that collapsed near Pensacola, FL. A new report—I am talking about the one released yesterday—finds climate change is rapidly—rapidly—turning the United States into a stormy and dangerous place and notes rising sea levels and natural disasters. The headline: ''New Climate Report: People's Lives Are at Risk.'' Subhead: ''Despite warnings, no signs of changed minds on Hill.''

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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The former head of the environment committee in the Senate said it is a hoax.

The Washington Post: ''Study: Climate Risks Growing.'' It has graphs here about the land surface air temperature rising, sea surface temperature rising, sea level rising, Arctic Sea melting, glacier mass decreasing.

Headline, Washington Post: ''Study: Climate Risks Growing.'' Subhead: ''Every Part of U.S. Being Affected.'' And, of course, the sub-subheadline: ''Conservatives criticize federal assessment.''

New York Times, front page, shows a picture of the United States: Rising temperatures. Now, plus two degrees, that is so significant. The temperature rising just less than a degree can change weather patterns in the world, and we are talking about two degrees. Now, they are changing.

Most of the State of Nevada is a desert. We have the most mountainous State in the Union, but most of Nevada is a desert. We have 314 separate mountain ranges. We have 32 mountains over 11,000 feet high. We have a mountain that is 14,000 feet high. But even in Nevada we are at the top of the rung in one part of Nevada. It is red, as it is in many places, from east to the west, to the Midwest. How can people deny what is going on? Look at the storms.

MARK PRYOR described to our caucus yesterday what happened in Arkansas. The winds blew in Arkansas at 190 miles an hour. Think about that. I was in Reno, NV, once when the wind was blowing 80 miles an hour. I couldn't believe the wind could blow any harder. It is so frightening. I was staying in a hotel. They had picture windows. I put my bed in the bathroom so it wouldn't be near windows. But the wind blowing 100 miles an hour faster than that, that is what happened in Arkansas. As he described, these weren't mobile homes; these were brick structures that were just disintegrated. All that was left when that storm hit was the foundation—most of the time.

So the Koch brothers want some open debate. It is here. We have done it.

The report I am referring to concluded there are disastrous—disastrous—climate changes taking place on our Earth due to human activity.

While the Koch brothers admit to not being experts on the matter, these billionaire oil tycoons are certainly experts at contributing to climate change. That is what they do very well. They are one of the main causes of this—not a cause, but one of the main causes.

An analysis by the University of Massachusetts-Amherst—the Presiding Officer knows this well as he is from the State of Massachusetts—ranked Koch Industries as one of the Nation's biggest air and water polluters, period. In one year, Koch Industries released 31 million pounds of toxic air. How much is that? It is more than Dow Chemical, ExxonMobil, and General Electric, combined, emit. They are the champions.

The Koch brothers' actions against the environment aren't limited, though, to toxic emissions. Charles and David Koch are waging a war against anything that protects the environment.

I know that sounds absurd, but it is true. These two billionaire oil barons are actively campaigning now and spending tons of money against anything that seeks to curb pollution, limit our dependence on fossil fuels or lower energy costs for working families. Even the Keystone debate—they are one of the main owners of all of that stuff up there, that ugly tar stuff in Canada. They are, if not the largest, the second largest owner of that stuff up there.

The Kochs are pumping millions of dollars into political organizations, fighting legislation that is good for the environment. They are not doing it only in Washington; they are doing it in State governments. They have intimidated State legislators.

This is ironic, having come from them, I guess—there should be a different way of describing it—given their statement urging the ''void of politics . . . and partisan agendas'' on issues pertaining to the environment.

For instance, we in the Senate are now considering an energy efficiency bill. Who is working against that more than anyone else? The Koch brothers. This bipartisan legislation will spur the use of energy efficiency technologies in private homes and in commercial buildings at no cost to the taxpayers. This bill will make our country more energy independent, protect our environment, and save consumers on their energy bills. If that is not enough, it would also create 200,000 jobs—American jobs that can't be exported. Even the Chamber of Commerce—by the way, huge amounts of money come from the Koch brothers to the Chamber of Commerce to run ads against Democratic Senators. But, in this instance, the Chamber of Commerce even supports Shaheen-Portman.

Unsurprisingly, Americans for Prosperity, the main arm of the Koch brothers—not the only one; they have lots of them—has been vocal in its opposition to even this bill I just talked about—energy efficiency. Remember, these are the same Koch brothers whose president Tim Phillips recently bragged that his organization targets Republicans who work on environmental issues. Again, you can't make up stuff like this. Here is a direct quote:

> What it means for candidates on the Republican side is, if you . . . buy into green energy or you play footsie on this issue, you do so at your political peril. The vast majority of people who are involved in the [Republican] nominating process—the conventions and the primaries—are suspect of the science. And that's our influence. Groups like Americans for Prosperity have done it.

They say, if you do anything that is good for the environment, they are against you. That is what they said.

So try to do something to affect climate change? The Koch brothers and their billions of dollars are coming after you not only here in Washington but in State legislatures around the country.

So that statement says it all. The Koch brothers admit they and their radical followers don't accept the science of climate change. The President of the Koch brothers' organization is actually bragging about Republicans' denial of evidence-based climate change. The Kochs know that scientists across the globe aren't working to mislead the world about the climate. They know that. These 300 scientists who are the nexus of the report issued yesterday are people working at universities—as indicated, at the University of Massachusetts, the one quote I cited today. All over the country, these people are trying to figure out what is going on. They know what is going on, and that is what the report is about.

Charles and David Koch choose to ignore climate change. They—the Kochs—choose to put our environment at risk. Why? Because it makes them richer, more affluent. They are making billions of dollars and in so doing are significantly damaging our environment.

A New York Times article recently highlighted the Kochs' attempt to fight renewable energy, even in State legislatures. It became so pronounced that the New York Times wrote an editorial criticizing these two wealthy men. As States promote solar and wind energy by offering incentives to renewable energy companies, the Koch brothers see how it will affect their bottom line.

They do not like that. They want to continue their coal operations, their diesel fuel operations, their spewing of chemicals all over America because they can make more money.

As renewable energy grows and becomes more efficient—and it is—oil and coal become a smaller piece of the pie. That is a fact, and that just won't cut it for Charles and David because it affects their bottom line. How unfortunate for the world that the Koch brothers trash this beautiful planet and jeopardize my children's and my children's children's health and future just to add more zeros to their huge bank account. Bloomberg publications now estimate that the Kochs' combined wealth exceeds $100 billion. How much money is enough for these two men?

I urge my Republican colleagues in the Senate to stand up to them. Well, they won't. You know, after I have given this speech, a few of them will come down here and say: It is freedom of speech. What is wrong?

We have an obligation to stand when these lies are perpetrated to the American people. So no Republican is going to come and defend this energy efficiency bill.

Energy efficiency and independence is good for our country, it is good for American families, and it is good for the Earth we live in. So do not be fooled—do not be fooled—by the greed of these billionaires named Koch.

Mr. President, during today people will be watching and they will see a quorum call, nothing on the screen. Why? Because we are in the midst again of one of these never-ending Republican filibusters—hundreds of them. Hundreds of them. Let me remind everyone that Lyndon Johnson was majority leader for 6 years. During that period of time he had to overcome one filibuster. Mr. President, I have lost track; it is hundreds and hundreds of filibusters that we have had to overcome, and we have the Republicans coming here today saying: Well, all we want is a few amendments.

They do everything they can to stop us from progressing on legislation that is good for this country. Anything that is good for Barack Obama they think is bad for the country, and for 5½ years they have opposed everything this good man has tried to do. It is a shame.

So to anyone out there wondering what is going on, it is another of the hundreds of filibusters they have conducted.

## RESERVATION OF LEADER TIME

Mr. REID. Would the Chair announce the business of the day.

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## ENERGY SAVINGS AND INDUSTRIAL COMPETITIVENESS ACT OF 2014—MOTION TO PROCEED—Resumed

The ACTING PRESIDENT pro tempore. The clerk will report the motion to proceed.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 368, S. 2262, a bill to promote energy savings in residential buildings and industry, and for other purposes.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, my staff just told me we are now at more than 500 filibusters—500.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, the majority leader has brought to the attention of the Senate today the headline news across America. This report by our government about what we are facing with environmental changes in America is a call to action.

I came to the floor yesterday and I made a challenge, which I have made before. I will make it again. I am asking any Republican Senator to come to the floor today and dispute the following claim: The Republican Party of the United States of America is the only major party in the world—the only major political party in the world—that is in denial of what is happening to our environment when it comes to climate change and global warming.

I have said it repeatedly. No one has disputed it. One political party is in denial about a change on this Earth that could literally affect generations to come. As a result, we are, I guess, stopped in our tracks. There is nothing we can do.

This bill before us today—the energy efficiency bill, which is on the calendar—if there were ever anything we should agree on, it is this. If your motive in energy efficiency is to save money for a business or a family, it is in this bill. If your motive in energy efficiency is to create jobs in America, it is in this bill—190,000 maybe 200,000 American jobs. If your motive is to do something for the environment, energy efficiency is the right bill. But here we are stuck in another Republican filibuster. Why? Because they insist on a series of amendments.

The sponsors of this legislation—Senator SHAHEEN from New Hampshire; Senator PORTMAN, a Republican from Ohio—basically came to an agreement on a bill that is bipartisan in nature, and there are 10 or more bipartisan amendments included in this bill.

Has the minority had an opportunity to be part of this process? Absolutely. Yet it is never enough. They want more and more, and they are prepared to slow down or stop the passage of a bill which in ordinary times would have passed by a voice vote. That is not going to happen. Unfortunately, we are going to be mired down in more procedural votes until some of these Senators get the amendments they want.

We wasted a week last week, a week in the Senate when nothing happened, when this bill could have passed. Why? One Republican Senator wanted to offer an amendment on the Affordable Care Act. They have flogged the Affordable Care Act in every imaginable direction, and now this Senator wants to deny health insurance coverage or at least make it more expensive for the staff of Members of the Senate and the House of Representatives, as well as Members themselves. That is his idea of a good idea to debate on the floor of the Senate at the expense of this bill.

Well, shame on the Senate. Shame on those who are obstructing us. We have had enough, have we not, of these filibusters and this obstruction? It is time that we roll up our sleeves and get down to the work of the people of this country.

### HEALTH RESEARCH

While I am on the subject, I am leaving to go to a committee meeting of the Appropriations Committee to talk about Federal funding for health research. This is another issue which troubles me, because of the lack of commitment by this Congress to one of the most fundamental responsibilities we have as a government.

We are blessed with the best biomedical research agency in the world today—the National Institutes of Health—one of the most extraordinarily public health agencies—the Centers for Disease Control—and we continue year after year to underfund these agencies at the expense of America's health and at the expense of creating good-paying jobs in our country.

For the last 10 years or more we have failed to give the National Institutes of Health protection from inflation, and as a result their spending power to award research grants has declined by 22 percent over the last 10 years. As to the researchers at the National Institutes of Health, there are fewer and fewer younger researchers. They have lost hope that there is a commitment by this government, by this Nation, to medical research. What is the net result? The net result is that we, at our peril, fail to do the research, to find the cures for diseases that make a difference in the lives of Americans and American families.

The Republicans argue that it is just too darn much money, that we cannot afford medical research. Well, let me give you one statistic to think about. Last year Medicare and Medicaid spent $203 billion of taxpayers' money—$203 billion—on the victims of Alzheimer's—$203 billion. If research at the National Institutes of Health could get to the heart of this disease and find a way to cure it—that would be a miracle—or delay its onset—it seems within the realm of possibility maybe—we could save dramatic amounts of money. Medical research pays for itself.

Listen to what is happening in the House of Representatives. We have a proposal for an extension of a Tax Code provision that will give a break to businesses to invest in research projects. There is nothing wrong with that. I have supported it. Throughout my time in the House and Senate, I have supported it. But listen—listen—to the logic. The Republicans in the House argue that if it is an R&D tax credit that goes to the private sector for research so they can develop new products and services and be more profitable and create more employment, it does not have to be paid for. Over 10 years, it would cost us $140 billion for the extension of this credit, on a 10-year basis, to the private sector, and the Republicans have argued, yes, this may nominally add to the deficit. But, in fact, it does not. The research and development leads to more businesses, more jobs, more tax revenue to the government, and so they argue we do not have to pay for it.

Now let me step over here. What about the research and development done, the medical research done by government agencies? Is that worth some money to taxpayers? Absolutely. Finding cures for diseases at NIH—Alzheimer's, diabetes, cancer; I could go on—each and every one of them would be a savings to the taxpayers. Yet they argue: No, that is government spending; that adds to the deficit.

That is such upside-down thinking. It is such a denial of reality. Basic fundamental medical research and biomedical research by these agencies relieves suffering, finds cures for diseases, and reduces the expenditures of

our government on health care. I would argue it is just as justifiable, if not more so, for us to be making the same investment in increasing biomedical research over a 10-year period of time—incidentally, at the same cost.

A 5-percent increase—real increase—in spending in biomedical research each year for the next 10 years at the National Institutes of Health, the Centers for Disease Control, the Department of Defense medical research, the Veterans' Administration medical research—those four agencies—5 percent real growth comes out to almost identically the same cost as extending the R&D tax credit for private companies.

Do them both. Do them both and I guarantee you America will get more than a $140 billion return for each one of them. Thinking ahead in an innovative way, with some vision toward the future, investing in research is really buying for the next generation a better life in America and a stronger economy for our country.

I want to make that appeal to my colleagues. If we bring the R&D tax credit to the floor and the argument is made: Well, we do not have to pay for that because it is going to private companies, the same argument should be made when it comes to increasing our investment in biomedical research at the most fundamental agencies that promote health in America and the world.

Back to this bill for a moment, I hope that by the end of the day the Republicans will end this filibuster, that we can start moving toward passing this bill. It should have been done last year. It should be done now. These excuses that we need a litany of amendments before we can even consider the bill are just delaying something that is very important for this country.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

ENERGY AMENDMENTS

Mr. MCCONNELL. Mr. President, earlier this morning it was suggested that Republicans are creating a problem on the Portman-Shaheen bill because we are insisting on amendments. I am stunned that anybody would think that insisting on amendments would be unusual or out of order. That is what we used to do in the Senate. We had amendments offered and we had votes on them by both sides.

One Senator, it was suggested, insisted on an ObamaCare amendment. That was dropped 5 days ago. Nobody is insisting on an ObamaCare amendment on the Portman-Shaheen bill. Senator VITTER had suggested that earlier but decided that was not a good idea on this particular bill because it was the opportunity, we hoped, to get four or five votes on important energy-related amendments. Senator DURBIN actually objected.

So I think it is important to set the record straight this morning. What Senate Republicans are asking for is four or five amendments related to the subject of energy. I would remind our colleagues that the minority in the Senate has had eight rollcall votes on amendments it was interested in since last July—since last July.

During that same period the House of Representatives, where it is often thought the minority has no influence at all, has had 125 rollcall amendment votes. So what is going on is the Senate is being run in a way that only the majority leader gets to decide who gets to offer amendments. He says: Maybe I will pick one for you.

That is not the way the Senate used to operate, not the way the Senate should operate, and I hope not the way the Senate will operate starting next year.

The majority leader, as I indicated, is basically shutting down the voice of the people here in the Senate; that is, the people who are represented by 45 of us. For 7 long years he has refused to allow truly comprehensive debate on energy in this Chamber. We have not had a comprehensive debate since 2007. He had a chance to change that yesterday. Dozens of Senators asked him to do that. We know the American people want us to do it. But he refused. Apparently he does not think the American people deserve a vote on a single energy amendment. Apparently he does not think the American middle class, which is being squeezed by rising energy costs and over-the-top government regulations, needs the kind of relief Republicans are proposing. He clearly must not think the people of eastern Kentucky deserve our help either. Kentuckians in the eastern part of my State are experiencing a depression—that is a depression with a ''D''—that the President's energy policies actually created and are making worse.

The administration has proposed new rules that would make life even harder for those folks, rules that would make it effectively impossible to build another coal plant anywhere in the country. Coal is a vital industry to the livelihood of literally thousands of people in my State. We should be allowed to help them, but the majority leader said no.

Let's be honest. He does not seem to think the people we represent deserve a say on much of anything anymore. Democrats over in the Republican-controlled House, as I indicated earlier, have had 125 amendment votes since last July, but here in the Senate the Democratic majority has allowed us nine. I said eight earlier. It is actually nine amendments since last July, that is, rollcall votes. It is shameful. But it says a lot about which party is serious these days and which one is literally playing games. It says a lot about the complete lack of confidence Washington Democrats have in an open debate. What is wrong with having an open debate? They are completely out of ideas, and apparently they do not want anybody to know that Republicans have suggestions to be made. So they are attempting to muzzle us at a time when middle-class Americans are in need of some relief. Do they really think that Americans who have had to cope with rising electricity prices, stagnant wages, and growing hopelessness in the Obama economy—do they really believe the Senate should not even be debating ideas that might help them?

It is hard to think otherwise. So I think middle-class Americans, looking at the Senate these days, are left to draw an obvious conclusion: That their concerns matter far less to today's Senate Democrats than the political imperatives of the far left. We know the President's political team must be pleased. One White House aide said they plan to lean on Senate Democrats to ''get the right outcome'' this week; in other words, to stop the American people from having a real debate on energy policies.

For the President and his political pals, it must feel like ''mission accomplished.'' This means he can avoid having to sign or veto legislation that might be good for the middle class but offensive to the furthest orbit of the left. It also means he can continue to impose energy regulations such as the one I mentioned earlier, through the back door, to govern by executive fiat, without having to worry about niceties such as Democratic accountability.

After all, far-left activists presumably demand that the President impose those regulations because they do not want the American people getting in the way again. They know what happened the last time they let that happen, when a fully Democratic-controlled Congress could not even pass a national energy tax.

As long as it has a Senate Democratic majority on its side, the far left knows it will not have to worry about the American people messing up its plans again. The majority leader proved that again this very week. The far left will not have to worry about the representatives of the American people voting through the Keystone XL Pipeline either.

Here you have a project the American people support overwhelmingly that would create thousands of jobs when we have rarely, rarely needed them more, and that would pass Congress easily if the majority leader would allow a vote, but he will not because the far left will not let him. If we do get a vote, the Democratic leadership will be sure to filibuster against the jobs the Keystone XL Pipeline will create.

Activists on the left positively hate this energy jobs initiative. They rail against it constantly, even though they cannot seem to explain in a serious way why it is a bad idea. But it is a symbol in their minds, so they demand Senate Democrats block its approval and Senate Democrats dutifully do just that.

Again and again we see the needs of the middle class subsumed to the whims of the left. That has become the legacy of today's Democratic majority. They have diminished the vital role the Senate plays in our democracy. We do not seem to debate or address the most serious issues anymore, even with significant events at home and abroad that deserve our attention, because for the Senate Democrats who run this place, the priority is not on policy, it is on show votes and political posturing 24/7. This reflects a party that has simply run out of ideas, that has failed to fix the economy after 5½ years of trying, and now sees its political salvation not in making good policy for the middle class but in exciting the left enough to save the day come November.

I guess we will see if this strategy pays off. But that is not what truly matters around here. What matters is that millions in our country are hurting and that Senate Democrats do not seem to want to act. Look, they should be joining with us to help our constituents because the American people did not send us here to play games or to serve the far left. Our constituents sent us here to have serious debates on issues that matter to them, such as energy security, national security, economic security. All three can be addressed if the majority leader would simply allow Republican amendments to be considered.

Our constituents want Congress to make good policy. The fact that we do not seem to do that under the current majority is quite tragic. The American people deserve better. They deserve a debate and they deserve to be heard.

HONORING OUR ARMED FORCES

SPECIALIST RUSSELL E. MADDEN

Mr. MCCONNELL. Mr. President, I want to pay tribute to a brave and honorable young man from Kentucky who was tragically lost in the performance of his military service. SPC Russell E. Madden, of Bellevue, KY, was killed on June 23, 2010, in Afghanistan in support of Operation Enduring Freedom.

Specialist Madden volunteered for his final mission and was in the lead vehicle in a convoy that was attacked by the enemy. His vehicle was struck by a rocket shell. He was 29 years old.

For his service in uniform, he received the Bronze Star Medal, the Purple Heart Medal, the Army Good Conduct Medal, the National Defense Service Medal, the Afghanistan Campaign Medal with Bronze Service Star, the Global War on Terrorism Service Medal, the Army Service Ribbon, the Overseas Service Ribbon, the NATO Medal, and the Combat Action Badge.

Russell Madden joined the Army just under 2 years before his death. His father Martin Madden reflects on his son's time in service by saying:

> Nineteen months is not a long military career. But 19 months was long enough to graduate basic training at Fort Sill, Oklahoma, with honors.

His dad continues:

> Nineteen months is long enough to be running and gunning as a lead convoy gunner on convoys that sometimes took 16 hours to move 40 miles to replenish forward operating bases, completing over 85 missions outside the wire in nine months . . .
>
> Nineteen months may not represent a prolonged period of time in the minds of most Americans; however, it is just long enough to create a patriot, to define heroism, and accept a place of honor among those who stand in silent testimonial to the strength of this great nation.

The bond between father and son that moves Martin to speak these words was forged, of course, not just over 19 months but over Russell's entire lifetime. Like so many of the extraordinary heroes who hail from Kentucky, Russell's childhood is full of examples of a young man devoted to a cause greater than himself.

He was the oldest of three children, along with his younger sister Lindsey and younger brother Martin. Like most young siblings, at times the kids would fight. Russell's parents had a unique way to defuse family tussles. Martin said:

> In order to settle [disagreements], we placed both [Russell and Lindsey] in the middle of the living room and told them to stand there hugging each other. After about 20 minutes of standing there hugging, we would begin to hear them laughing and having a good time, and we would go in and tell them if they could get along they could stop.

Little sister Lindsey remembers childhood stories like these, just as she remembers her brother's dedication to service. She said:

> All he ever told me, every time I talked to him, was that he wanted to make me proud. And he has. He always made me proud.

Russell attended Bellevue High School, where he displayed his dedication to serving on a team as a star athlete in football, baseball, and track. During his senior year, the track team was 1 week away from the State meet when the top hurdler was injured. The whole team was in danger of not qualifying unless someone stepped in. Russell volunteered to run the hurdles, even though he had never run a hurdle event in his life.

Martin Madden recalls:

> Russell took off running at full sprint, stopped when he got to the hurdle and jumped over it, then took off running at full speed until he reached the next hurdle and stopped and jumped over that one, throughout the track. It was the most unorthodox style the coach had ever observed, but with the state qualifier taking place next week, the coach allowed Russell to represent the team.

As a result, Russell's first-ever hurdle event was the State-qualifying match. Even using what his father calls his ''God-awful ugly style,'' Russell qualified and ran in the final State competition, where he placed sixth.

Russell was a winner on the football field just as he was in track and field. Every Friday night, during the 1999 season, fans packed Gilligan Stadium to watch Bellevue High play out what would be an undefeated season. Russell played running back and was such a talented athlete that he could also kick field goals and extra points, return kickoffs, punt, quarterback, and play wide receiver—and that is only on the offensive side of the ball. He also played linebacker on defense.

As a result of his all-around athletic success, volunteer work, and coaching of youth football teams, Russell was inducted into both the Bellevue High School Sports Hall of Fame and the Northern Kentucky Youth League Football Hall of Fame. He was also recognized by the Northern Kentucky High School Football Coaches Association for his sportsmanship. Russell graduated from Bellevue High School in 2000.

In 2008 Russell and his wife Michelle learned that their son Parker had a preliminary diagnosis indicating a high potential for cystic fibrosis. Martin said:

> Russell joined the Army to fight for his country and provide the medical treatment necessary for his young son.

Russell enlisted in 2008, and during his deployment to Afghanistan was assigned to the 1st Squadron, 91st Cavalry Regiment, 173rd Infantry Brigade Combat Team based out of the Conn Barracks in Germany.

Russell's father Martin recalls how Russell's fellow soldiers felt about Russell's dedication to them and their team—a dedication that echoed the drive of the young man who volunteered for the hurdles and excelled on the gridiron.

''This . . . is what the soldiers in his platoon told me,'' Martin said.

Russell said to them:

> Guys, I will not let you down. We will get there. . . .

If ever there was going to be a problem, they wanted to be with Russell because they knew he would never let them down.

Respect and admiration for Russell's dedication to a cause greater than himself even reached the halls of the Kentucky General Assembly, which passed a joint resolution to designate Kentucky Route 1120, within the city limits of his hometown of Bellevue, as the ''SPC Russell Madden Memorial Parkway.'' Russell's family was present as the new street sign was unveiled for the first time.

Russell's wife Michelle said:

> It is an awesome tribute to my husband. He deserves it. I want this sign for my son to say, ''Hey, that's my dad's sign. That's what my dad's done for us.'' This is what is going to carry on his legacy.

We are thinking of SPC Russell E. Madden's family today, including his wife Michelle, his son Parker, his stepson Jared, his parents Martin Madden and Peggy Davitt, his sister Lindsey, his brother Martin, and many other beloved family members and friends.

It is important that Russell's family knows that no matter how long or how short his time in uniform may have been, Martin Madden is absolutely right that his son will and must be forever remembered and revered for the sacrifice he has made on behalf of our country.

I know SPC Russell E. Madden certainly will be remembered by this Senate. I ask all of my colleagues to join me in expressing the utmost respect for his life and his service.

We extend our greatest condolences to his family for a loss on behalf of our Nation that can never truly be erased.

I yield the floor.

The PRESIDING OFFICER (Ms. HEITKAMP). The Republican whip.

Mr. CORNYN. Madam President, I was on the floor, as was the Presiding Officer, listening to the distinguished Republican leader's glowing tribute to this fallen warrior. We were moved, certainly, by it.

He preceded his comments by talking about what is happening to the Senate and the fact that even though we are debating, supposedly, the first energy legislation to come to the Senate floor since 2007, the majority leader's—Majority Leader REID, who has the power under the Senate rules to basically be the traffic cop, to decide which amendments get heard and voted on and which ones do not—comment was to the effect that the majority leader has essentially shut the Senate down and denied the minority an opportunity to offer their amendments and to get votes on amendments.

I know people listening must say: Well, here they go again talking about the prerogatives and rights of Senators. But that is not what I am talking about. I am talking about the rights and prerogatives of the people I represent, 26 million Texans who are being shut out of a debate on—of all topics—energy.

We take great pride in the fact that Texas is an energy-producing State, and it is one of the reasons why our economy has been doing better than much of the rest of the country, because we have responsibly, and with the right kind of environmental stewardship, taken advantage of this gift of the natural resources that we have in our State.

Thanks to the innovation, and thanks to the investment and the hard work of a lot of people, we are doing better—thank you—than the rest of the country when it comes to job creation.

It really offended me when the majority leader this morning said:

> Mr. President, during today people will be watching [presumably in the gallery, on C–SPAN, maybe on the evening news] and they will see a quorum call, nothing on the screen. Why? Because we are in the midst again of one of these never-ending filibusters of the Republicans—hundreds of them, hundreds of them. Let me remind everyone, Lyndon Johnson was majority leader for 6 years.

Well, I would just interject Lyndon Johnson didn't run the Senate the way Senator REID does, when he was majority leader. Senator REID continues:

> During that period of time he had to overcome one filibuster.
>
> Mr. President, I have lost track. It is hundreds and hundreds of filibusters that we have had to overcome, and we have the Republicans coming here saying today: Well, all we want are a few amendments. They do everything they can to stop us from progressing on legislation and things that are good for this country.

He is talking about the 45 Senators on this side of the aisle—that we will do everything we can to stop from progressing on legislation and on things that are good for the country. How insulting can you be?

We are going to have differences of opinion, sure. That is why are here. That is why they used to call the Senate the world's greatest deliberative body, because on the floor, not even Majority Leader REID can shut me down or any other Senator who stands and is recognized by the Chair to speak on a matter of importance to their State or to the country.

But to have the majority leader come to the floor and say that what we are trying to do is stop progress on legislation and things that are good for the country—he goes on. Senator REID accuses us of trying to stop:

> Anything that is good for Barack Obama they think is bad for the country, and they, for 5½ years, have opposed everything that this good man has tried to do. It is a shame.
>
> So anyone out there wondering what is going on, it is another of the hundreds of filibusters they have conducted.

Majority Leader REID has been a Member of the Senate for a long, long time. He knows this is not true.

So why he would come to the floor of the Senate and say it is puzzling to me.

We had 2 years when President Obama and Senator REID's party could do anything they wanted. How is that? Well, because they had 60 votes in the Senate, which is sort of the magic number, when you can basically do anything you want in the Senate because the minority doesn't have enough numbers to stop the majority or to check their power.

So Democrats had the House of Representatives, with NANCY PELOSI as Speaker. They had the Senate, with 60 votes, HARRY REID as the majority leader, and they had Barack Obama in the White House.

What did we get in those 2 years? Well, one of the things we got was ObamaCare. We know it was sold on the basis of: If you like what you have you can keep it, your premiums would go down $2,500 and, yes, you could keep your doctor too. But none of that proved to be true—none of it.

We got Dodd-Frank. Do you remember Dodd-Frank? That was the legislation following the financial crisis of 2008 and the meltdown on Wall Street that was very damaging to the economy of this country; there is no doubt about it. What we got with unrestrained and unchecked single-party efforts during the time when they controlled both branches of government—the executive and the legislative branches—was legislation that targeted Wall Street, but Main Street was actually the collateral damage. I hear that from my credit unions and community bankers in Texas all the time, that the regulations are strangling them and keeping them on the sidelines, hurting the economy and hurting job creation.

My point is the Framers of our Constitution understood it is important to have vigorous debate on the differences of opinion each of us bring in representing our various States. The Constitution makes the point, in Article I, Section 1, that ''all legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.''

I ask the majority leader, if the Constitution vests all legislative authority in the Senate and the House, what happens when half of the Senate is shut down and denied an opportunity to participate in the legislative process?

The Constitution goes on to state what kind of legislative power is vested in the Senate and the House. Section 8, Article I of the Constitution lays out a laundry list of powers the Congress has—the sorts of things Congress is intended to legislate on. It contains everything from the ''Power To lay and collect Taxes, Duties, Imposts and Excises . . . To borrow Money on the credit of the United States; To establish an uniform Rule of Naturalization . . . To coin Money . . . To provide for the Punishment of counterfeiting the Securities and current Coin of the United States; To establish Post Offices and post Roads; To promote the Progress of Science and useful Arts . . . To constitute Tribunals inferior to the supreme Court.''

The list goes on and on. Of course, finally, the last phrase in Article I, Section 8 is laying out the power of the Congress to legislate, where it says, ''To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.''

So I ask the majority leader: If the Constitution grants the Congress the power to legislate and specifies all of the things we are supposed to legislate on and do as the elected representatives of our various States, what happens when we are shut out of the process, when we are denied an opportunity to represent the people who elected us to office, who have entrusted us with a sacred responsibility and a stewardship?

It is beyond outrageous. It is beyond outrageous for the majority leader to make the remarks he made this morning that I previously quoted because he knows they are not true. He knows they are not factual. The Constitution itself guarantees my constituents, all 26 million of them, the rights laid out in the Constitution in Article I. When

they vote for a U.S. Senator, they are entitled to have their Senator participate in the legislative process. We are not guaranteed the right to win these votes, but we are given the responsibility and the privilege of representing them in this place, and we cannot do it when the majority leader runs this place like a dictator.

We are debating—supposedly—an energy efficiency bill. As I said, it is the first time we have had an energy debate on the floor since 2007. There are a lot of very good ideas that have been offered to improve the underlying piece of legislation. I have no doubt the underlying legislation would pass. It will pass, if the majority leader allows us an opportunity to offer and debate our proposals for improving the underlying bill, but if he is going to shut us out of the process and deny the people I represent a voice and an opportunity to improve this piece of legislation, we are not going to cooperate.

The majority leader keeps saying no to amendments, and he denigrates our right on behalf of our constituents to offer amendments and to get votes on those amendments. I know I have come to the floor before, as other Members have come to the floor, and tried to speak on this topic. I know sometimes this sounds as though it is all just about process. It is about process. How boring could that be. It is important because in essence the majority leader has imposed a gag rule on the minority in the Senate, a gag rule in the world's greatest deliberative body—no more.

I don't know what the majority leader is afraid of. Is he afraid of a vote on the Keystone XL Pipeline? I think I saw a poll the other day that said roughly 61 percent of the respondents to that poll thought this was a good idea, that we get more of our energy from a friendly source, such as the nation of Canada, and rather than having to transport all of it in tank cars on trains that occasionally crash and cause a lot of damage, it might be better to build this pipeline so we could safely transport that oil from Canada down to refineries in my State, where it could be converted into gasoline, aviation fuel, and the like, and in the process create an awful lot of jobs.

Sixty-one percent, according to that poll I read, said they thought that was a pretty good idea. Yet the majority leader will not even allow a vote on that amendment. He will not allow a vote on minority amendments. He will not allow a vote on Democratic amendments. I bet my colleagues on the other side of the aisle must be frustrated, indeed, because they have been denied an opportunity to participate in this process, too, thanks to the autocratic powers being exercised by the majority leader.

Here is another idea this side of the aisle had for an amendment we would like to get some debate and a vote on. We are not asking to win. We can do the math. We know we are in the minority. But these are important topics. Vladimir Putin invades Crimea, the Russian Army is building up in the Ukraine and causing havoc in that country, and it looks like he is not going to stop. The President said we are going to make sure there is a cost imposed as a result of Vladimir Putin's invasion of Ukraine, so we are going to impose a number of sanctions. The fact is, as my colleague from Arizona, the senior Senator from Arizona, has said, Russia is a gas station posing as a country. I think that is a pretty humorous way of saying the energy Russia produces and transmits to Ukraine and Europe is its main source of economic power and revenue. If we could undermine that by exporting more energy from the United States to Europe, that would dissuade Vladimir Putin, perhaps, in addition to other things we might do, but the majority leader will not even allow us an opportunity to vote on that issue. By the way, it will also continue to create more jobs in America.

Here is what the majority leader has done. Since he has been majority leader, he has basically blocked any opportunity for Republicans to offer amendments on legislation 84 times—84 times—including 14 times just this year. He has shut us out. He has imposed the Reid gag rule and said: I don't care what the Constitution says. I don't care that you were elected by the people in your State to come here and be their voice and to offer their ideas on legislation. I don't care. We are not going to allow it, is what Majority Leader REID has said 84 times.

Then he has the audacity to impugn our motives this morning, to insult the job we are trying to do to represent our constituents. He calls that a filibuster. George Orwell wrote a book called ''Nineteen Eighty-Four,'' where he talked about how people can twist the ordinary understanding of the English language in a way that is very dangerous. But I would suggest that no definition of filibuster could be derived from the fact the majority leader has imposed his gag rule, has shut us out of the legislative process, and denied us the opportunity to do what the Constitution guarantees. He calls that a filibuster? Give me a break.

So the majority leader comes to the floor this morning and says: If you are watching C–SPAN or if you happen to be visiting the Capitol and are in the gallery, all you are going to see are quorum calls. You are going to hear nothing but crickets on the Senate floor because there is not going to be anything happening there.

The reason that is true, in large part, is because he has shut down the process. He has denied us a voice. He has denied us an opportunity to participate in the legislative process the Constitution talks about in the provisions I just read.

I am probably not going to persuade Majority Leader REID about the error of his ways because I don't think he cares. I don't think he cares. It is not going to affect whether he is reelected in Nevada, perhaps, and there is nothing the minority can do, given the fact the majority leader has extraordinary power under the Senate rules and under the precedent of the Senate. He can get away with it, if the Senate allows it, if the public allows it. But that is why it is important to come to the Senate floor and expose this fraud for what it is. It is a fraud.

The majority leader is trying to deceive the American people into thinking that by speaking out against this gag rule we somehow are an obstacle to passing legislation. We have certain responsibilities to the people who sent us, and that responsibility does not include sitting down and shutting up when we are being run over by a freight train by the name of Senator HARRY REID. It is outrageous. It is outrageous.

Thanks to the majority leader we likely will not have any amendments on this piece of legislation. I think at last count there were roughly 30 ideas we had that we would like to offer amendments on. We have even proposed to Majority Leader REID that we would take those 30 or 40 amendments and talk among ourselves and maybe we can reduce those to 5 or so relevant amendments—items that have to do with energy, with jobs, with national security. His answer is, no, forget it.

Instead of accepting responsibility for his decision, he blames us for filibustering. What does he expect us to do? To be quiet? To sit in our offices while he runs this railroad that used to be known as the world's greatest deliberative body, runs over our rights and the rights of the people we represent? Well, we are not going to sit down and shut up. We are not.

Back in my younger days I used to be a practicing lawyer. I would be hired by a client to come into court and make an argument on their behalf, to give them the representation they were entitled to under our system of justice. I had my argument and the opposing party had their argument and their lawyers and their witnesses, and they came in and presented it before a jury of either 6 people or 12 people, depending on the court you were in, and we would ultimately settle that dispute between the parties, kind of like the difference of opinion we have here on how the Senate ought to operate and what business we ought to be conducting.

In court, when you have a dispute between opposing parties, the judge and the jury who are impartial will listen to the facts, and the judge will decide what the law is that applies in that kind of case, and then you will have a verdict. And that law, with the judgment the judge signs incorporating those findings of fact by the jury, is how the case is decided.

How does that work here in the Senate? What is the analogy? The best analogy I can think of is that we will indeed have a verdict, but it is going to be by the voters in the midterm elections come November.

My only conclusion is that the majority leader must be afraid of having this sort of robust debate because he knows it will expose some of his members to votes they may have a hard time explaining back home. There actually may be some accountability, Heaven forbid. So his answer is to shut down the Senate. It is very sad.

VETERANS ADMINISTRATION

Mr. President, with each passing week we are finding out more and more about institutional failures within the Department of Veterans Affairs. We recently learned that the Phoenix VA system had a secret waiting list designed to conceal a massive backlog of delayed appointments, and that some of the veterans who were put on this secret waiting list actually died while waiting to get the treatment they deserved.

Now we are learning that staffers at a VA outpatient clinic in Fort Collins, CO, were deliberately showing their clerks how to create fraudulent appointment records. In the meantime, there are still more than 589,000 VA pension and compensation claims pending nationwide, and a majority of them are backlogged according to the VA's own criteria, which is more than 4 months.

Every day it seems as though we learn of a new part of this scandal because whistleblowers stepped forward and said: Yes, that was happening where I worked too.

Yesterday, the Austin American-Statesman published a story entitled ''VA employee: Wait list data was manipulated in Austin, San Antonio.'' The story says:

A Department of Veterans Affairs scheduling clerk has accused VA officials in Austin and San Antonio of manipulating medical appointment data in an attempt to hide long wait times to see doctors and psychiatrists, the American-Statesman has learned.

. . . the 40-year-old VA employee said he and others were ''verbally directed by lead clerks, supervisors, and during training'' to ensure that wait times at the Austin VA Outpatient Clinic and the North Central Federal Clinic in San Antonio were ''as close to zero days as possible.''

The medical support assistant . . . said he and other clerks achieved that by falsely logging patients' desired appointment dates to synch with appointment openings. That made it appear there was little to no wait time, and ideally less than the department's goal of three months.

Madam President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Austin American-Statesman, May 6, 2014]

VA EMPLOYEE: WAIT LIST DATA WAS MANIPULATED IN AUSTIN, SAN ANTONIO

(By Jeremy Schwartz)

A Department of Veterans Affairs scheduling clerk has accused VA officials in Austin and San Antonio of manipulating medical appointment data in an attempt to hide long wait times to see doctors and psychiatrists, the American-Statesman has learned.

In communications with the U.S. Office of Special Counsel, a federal investigative body that protects government whistleblowers, the 40-year-old VA employee said he and others were ''verbally directed by lead clerks, supervisors, and during training'' to ensure that wait times at the Austin VA Outpatient Clinic and the North Central Federal Clinic in San Antonio were ''as close to zero days as possible.''

The medical support assistant, who is seeking whistleblower protection and has been advised to remain anonymous by federal investigators, said he and other clerks achieved that by falsely logging patients' desired appointment dates to sync with appointment openings. That made it appear there was little to no wait time, and ideally less than the department's goal of 14 days. In reality, the clerk said, wait times for appointments could be as long as three months.

The claims echo recent allegations that VA officials in Arizona and Colorado similarly manipulated wait time data or maintained secret lists to obscure lengthy wait times for medical care. Three top administrators at the VA medical center in Phoenix have since been put on leave and the VA's inspector general is conducting an investigation into an alleged secret wait list at the facility. A retired doctor at the Phoenix facility told CNN that more than 40 veterans there died while waiting for an appointment.

This week, the American Legion, the nation's largest veterans service organization, called for the resignation of VA Secretary Eric Shinseki, citing several issues, including wait times for medical care.

When asked to respond to the allegations, local VA officials said in a statement they would review their scheduling practices, but didn't directly address the claims.

''In light of the charges recently made against the Phoenix VA, (director of the Central Texas Veterans Health Care System Sallie) Houser-Hanfelder has made it clear she does not endorse hidden lists of any kind,'' the statement reads. ''To ensure the integrity of the health care system, she has directed each service chief to certify they have reviewed each of their sections and scheduling practices to ensure VA scheduling policies are being followed. All staff who schedule appointments have also been instructed to have refresher training to make sure policies are clear and being followed accurately.''

U.S. Sen. John Cornyn, R-Texas, called for emergency hearings after learning of the Texas allegations.

''This is yet another deeply troubling account, and I'm afraid we have not heard the last of gross mismanagement within the VA and deception by VA bureaucrats,'' Cornyn said in a statement. ''It is time for urgent steps to be taken that match the gravity of this situation.''

He also called for Shinseki to step down.

''It is absolutely disgusting to think that another VA facility would be cooking the books like this, especially in our own community. The House of Representatives is digging into these allegations against the VA from every direction possible and we will get to the bottom of this,'' said U.S. Rep. John Carter, R-Round Rock.

The Texas clerk said he saw the scheduling manipulation when he worked at the Austin VA Outpatient Clinic from December 2012 to December 2013 and when he transferred to the San Antonio clinic, where he still works. He said he also saw similar maneuvers at the Waco medical center earlier in 2012.

''If you had any appointments showing over a 14-day waiting period you were given a report the next day to fix it immediately,'' said the clerk, a disabled veteran who served in the Army from 2002 to 2011. Fixing it meant recording the requested appointment date closer to the available opening, he added.

The clerk said that scheduling clerks in Austin were also instructed specifically not to use a VA tool called the Electronic Waiting List, which is designed to help veterans waiting for appointments get slots created when other veterans cancel their appointments.

''The failure to use (the electronic waiting list) may also pose a substantial and specific danger to public health, because patients who should be included on the EWL are not receiving more timely appointments when they become available,'' according to the clerk's communications with the Office of Special Counsel.

While the VA's massive backlogs of disability benefits claims have garnered much attention in recent years, investigators have also increasingly discovered problems with access to VA medical care.

In 2012, the VA inspector general found that the department had vastly overcounted how many veterans were waiting 14 days or less for a mental health evaluation. While the VA claimed a 95 percent rate in meeting the two-week target, investigators found that the real number was 49 percent, with the remaining 51 percent of patients waiting about 50 days for an evaluation.

That same year, a scheduling clerk at a VA medical center in New Hampshire told a Senate committee that staffers there were instructed to obscure wait times for mental health help by using a method similar to that described by the Texas clerk.

''The overriding objective at our facility from top management on down was to meet our numbers,'' Nick Tolentino told the committee. ''Performance measures are well intended, but are linked to executive pay and bonuses and as a result create incentive to find loopholes that allow facilities to meet its numbers without actually providing services.''

Last week, the House voted to ban bonuses for VA executives, a move opposed by VA leadership. Shinseki has defended the bonus system, saying it is necessary to ''attract and retain the best leaders.''

Rep. Jeff Miller, R-Fla., chairman of the House Committee on Veterans' Affairs, which is also investigating delays in VA medical care, blasted the VA on Tuesday for not taking better advantage of its authority to send patients who are waiting months for appointments to private medical providers.

''Whether we're talking about allegations of secret lists, data manipulation or actual lists of interminable waits, the question VA leaders must answer is 'Why isn't the department using the tools it has been given—fee-based care being one of them—to ensure veterans receive timely medical care?' '' he said.

Mr. CORNYN. Scandals such as these confirm the VA lacks safeguards against official abuses, and it also lacks accountability—the kind of accountability that would ensure American veterans get the care and support they need in a timely fashion.

In the wake of the Phoenix revelations—and now, more urgently after what happened at Fort Collins and now reports of abuses at San Antonio and Austin, perhaps—I have called on the majority leader to hold hearings on these scandals, and I reiterate that call today.

I also reiterate my call for VA Secretary Eric Shinseki to resign his position and to let someone else take on the reforms necessary to get the VA back on track.

As I said yesterday, and as the American Legion noted, Secretary Shinseki is an American patriot who did multiple combat tours in Vietnam and has devoted his life to serving his Nation. He deserves nothing but our respect for that service. But, unfortunately, the VA scandals on his watch have been so numerous and so outrageous that they demand immediate accountability, and it has become clear to me that Secretary Shinseki is not the right person for the job.

He has been in charge of the Department more than 5 years. Under his watch, many of the VA's problems have gotten worse, not better. These problems call for new leadership and a new direction.

As Dan Dellinger of the American Legion said on Monday:

> There needs to be a change, and that change needs to occur at the top.

I emphasize again the urgency of the situation.

I know the President yesterday was talking about the urgency of dealing with climate change. I hope the President and Congress would act with at least the same kind of urgency the President was arguing for when it comes to climate change, when it comes to our veterans—some of whom are dying, waiting to get the treatment they are entitled to.

What the VA needs is full-scale institutional reforms which introduce much stronger safeguards against administrative abuses and much greater accountability for senior officials. Because, let's face it, the VA's problems go well beyond a few rogue health care personnel and administrators in Phoenix and Fort Collins, CO.

At a time when American veterans are facing enormous physical and psychological and financial challenges, the Federal Government is letting them down. Don't take my word for it. According to a recent survey of war vets from Afghanistan and Iraq:

> Nearly 1.5 million of those who served in the wars believe the needs of their fellow vets are not being met by the government.

One Iraq veteran—a former Army staff sergeant named Christopher Steavens—told the survey group he had been trying to get health care and financial relief for more than a half year, and had yet to hear back from the VA. They hadn't even gotten back to him and responded. He said:

> When I raised my right hand and said, ''I will support and defend the Constitution of the United States of America,'' when I gave them everything I could, I expect the same in return. . . . It's ridiculous that I've been waiting seven months just to be examined by a doctor—absolutely ridiculous.

Sergeant Steavens is right. It is ridiculous. But it is more than that. It is disgraceful, and it dishonors the brave service our men and women in uniform have given on our behalf. It is past time for us to get serious about fixing the problem.

Again, to underscore the urgency of these issues, the survey I mentioned a moment ago found that one out of every two Afghanistan and Iraq war veterans says they know a fellow servicemember who has attempted or committed suicide. One out of two knows somebody who has tried or has successfully committed suicide, and our message to the veterans is: Just wait. Be quiet. Sit down. Shut up.

It is unacceptable. As I said earlier, Secretary Shinseki is an American patriot. But after 5 years as head of the Veterans' Administration, it is time for him to step down and make way for new leadership.

More important, it is past time for the Veterans' Administration to start honoring its promise to America's heroes. The status quo is unacceptable and no one disputes that. The only question is: Are we going to do something about it? Appointing a new Secretary would be a good start.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

TALWANI NOMINATION

Mr. MARKEY. Madam President, I rise today in support of the nomination of Indira Talwani to the United States District Court for the District of Massachusetts. Ms. Talwani is a brilliant and accomplished attorney who will make an outstanding addition to our district court.

She is an American success story. Her parents were immigrants from India and Germany. If confirmed, she will be the first Asian-American district court judge in Massachusetts.

She has received honors throughout her career, and her background and experience unquestionably qualify her for the bench. She will be someone the people of Massachusetts, of New England, and our whole country can be proud of.

I believe she will be an objective, unbiased decisionmaker, and that is exactly what we need for our district court judges. I recommend her wholeheartedly to the Members of this body.

The Shaheen-Portman energy efficiency bill is going to be considered here today, and I recommend it to all of the Members of this body because it is a bill that has been developed across parties in a bipartisan way—across industries, across labor, across consumer groups.

This is a bill which on a bipartisan basis is going to lead to improvement in the building codes of the United States to reduce energy consumption, increases in the efficiency of industrial equipment to reduce energy consumption, to increase the energy efficiency of Federal buildings in our country to reduce energy consumption. None of it is being done on a mandatory basis. It is all done on a voluntary basis. That is why we have a consensus here today.

The consensus includes an understanding that this is going to create 190,000 new jobs in our country—from the Shaheen-Portman bill. It will save consumers $16 billion per year. And it will cut carbon dioxide going into the atmosphere, polluting our country and our world by the equivalent of 22 million automobiles per year by the year 2030.

These are benefits that are going to be maximized because we are going to start working smarter, not harder, just reducing the amount of energy we consume, reducing the amount of $CO_2$ we send into the atmosphere, and doing it on a voluntary basis—voluntary.

So let's have a vote here on the Senate floor. Let's just get it done. Let's agree on what it is that we know is going to help our country. We know it is going to create more jobs. But the Republicans say: No, we need a vote on the Keystone Pipeline. We need a vote on something that is highly controversial, and we demand that vote.

Majority Leader REID agrees to have a vote on the Keystone Pipeline—agrees to have a vote on the Keystone Pipeline. How controversial is that? Well, you are going to take the dirtiest oil in the world, coming down from Canada, build a pipeline through the United States, bring it down to Port Arthur, TX, which is a tax-free export zone, and then that oil is going to be exported out of the United States. Where are the benefits for the United States in this scenario? We take the environmental risk, the Canadians get the benefit of having the dirtiest oil in the world come through that pipeline, and then it is going to be exported out of the United States.

How do I know it is going to be exported out of the United States? Because I, as a member of the House of Representatives, had this amendment over and over brought to the floor of the U.S. House of Representatives, and every time the American Petroleum Institute opposed it. Even though they say it is all about North American energy independence—ha-ha—when you have a vote, every Republican votes to keep that provision out of the bill so the oil can go out of the United States. So just stop this about ''energy independence for North America'' if you don't, as a part of the Keystone Pipeline, accept a provision where the oil has to stay here. Otherwise, what is the point? I will tell you what the point is. It is maximizing profit for the oil industry because they make more money when they sell the oil outside the United States. American consumers don't get the benefit of it, no. The world is going to get the benefit of it; the oil industry is; the Canadians are.

Majority Leader REID said: We will have a vote on that. We will have a vote on it.

And then what happens? We come back this week, and the Republicans say that is not enough. This nice energy efficiency bill is going to be the vehicle for even more highly controversial issues, which at the end of the day is all meant to do what? To kill the energy efficiency bill because it reduces the amount of $CO_2$ that goes into the atmosphere on a voluntary basis.

How do we know that? Well, we know it because their amendments go right

to the heart of what it is that we should all now finally accept. They want to have a vote and a big debate here that would prevent the Environmental Protection Agency of the United States of America from regulating greenhouse gases, from regulating global warming. That is the debate they want to have. They are saying: No energy efficiency bill—which everyone agrees on—unless we have a debate on whether our Environmental Protection Agency can regulate greenhouse gases.

It is 2014. It is 100 degrees in Kansas today. There are hurricanes, cyclones, the tides are rising, the water is warmer, and the storms are more intense. It is not just here, it is all across the planet. The scientists agree that there is global warming. Their amendment would prohibit the Environmental Protection Agency from regulating global warming pollution. That is what they call something that is reasonable.

We have a bill everyone agrees should pass, but after getting an agreement that the Keystone Pipeline would be debated, they just continue on down the pathway.

Yesterday the Obama administration released a third U.S. National Climate Assessment. From droughts in the West to deluges in the East, this new report shows that we are becoming the United States of climate change and that we must act in order to keep our Nation safe and strong.

Second, they want to attach a provision to massively expand our exports of natural gas. They want to take the natural gas that is being drilled for here in the United States and put it on ships and send it out of our country. The more natural gas we export out of our country, the higher the prices are going to be for natural gas in our country. It will be more expensive to generate electricity. It will be more expensive for manufacturers to make their products in our country. It will be more expensive for those who want to build natural gas buses and natural gas trucks to be able to do so.

That is something they want to do—export the natural gas of the United States to other countries. Does that make any sense? Is that the kind of noncontroversial discussion we should have at the time we have an energy efficiency bill that should go through? No, not at all. This is meant to dynamite the energy efficiency bill. That is what that amendment is all about.

Then they want to add a rider to the bill as well that will prohibit the EPA from even considering at any time in the future a price on carbon—or, for that matter, prohibiting anyone.

These are loaded, highly controversial amendments, all at their heart denying the reality of how much harm they will do to the United States. Meanwhile, the Koch brothers smile. They smile because they know it is all going to accomplish their principal goal: making sure no energy efficiency bill passes in the Senate this year, no reduction in the amount of greenhouse gasses we are sending up. That is the agenda. It is going to be the agenda into the future for the Republican Party. It has been the agenda.

I look out and I see Republicans who have worked hard to put together this energy efficiency bill. I praise them for their willingness to come together on commonsense, reasonable provisions that reduce the amount of carbon going into the atmosphere on a voluntary basis by encouraging the creation of 190,000 new jobs in our country that Democrats and Republicans agree on. And I see this whole process getting hijacked by the Koch brothers, by the oil industry, by the natural gas industry that wants us to devolve into a big debate over science that is now completely and totally consensus not only here but around the planet.

The planet is running a fever. There are no emergency rooms for planets. We have to engage in preventive care to avoid the worst, most catastrophic impact of climate change on this watch we have here in the Senate. But, no, the process is being hijacked. You can see it here. They want to torpedo this process so that more oil, more coal, and more profits for the coal and oil companies become the agenda.

So all I can say, ladies and gentlemen, is that we are at a historic turning point. The headlines in the newspapers across this country and across this planet tell the story today: Climate risk growing. That is the consensus. That is the reality. That is what this energy efficiency bill is meant to deal with. And what will happen—and we are going to see it over and over—is we are going to have Member after Member on the Republican side get up and demand that we have a debate on something unrelated to this energy efficiency bill where there is a consensus. They want to take climate science that is a consensus around the planet and have another huge debate here on it. That is the tragedy of this.

The green generation, the young people in our country, they know this is the challenge of this generation. We as a nation have to stand up. A high percentage of that $CO_2$ in the atmosphere is red, white, and blue. We cannot preach temperance from a barstool. We cannot tell the rest of the world ''you must do something'' if we are not doing something. That is what the bill we should be debating here today would do on a bipartisan basis: reduce greenhouse gases, create 190,000 jobs, and do it all on a voluntary basis—too simple, too good, too clearly consistent with these two objectives of job creation and greenhouse gas reduction.

So I think what we are seeing is that the conserve in conservative no longer exists—not with the Koch brothers around. So this is now just going to be something that short-circuits the legislative process. It ensures that the energy efficiency bill is collateral damage because of their insistence on these amendments, when instead we have a chance this week to say that we are going to move forward on a smart energy policy; that we will work smarter, not harder; that we should come together to pass this bill without these giveaways to the oil industry and to the coal industry so that we can create jobs and save energy. And I would recommend to my colleagues that is the correct historical position this Chamber should be in right now.

At this point, Madam President, I yield the back the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

(The remarks of Mr. HATCH pertaining to the introduction of [S. 2301] are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Madam President, it is my understanding that the Senator from Missouri Mr. BLUNT will be recognized next for 10 minutes or so.

I ask unanimous consent that following the remarks by Senator BLUNT, I be recognized for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I yield the floor and suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Madam President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BLUNT. Madam President, I thank my good friend from Oklahoma for ensuring that I have the time to talk for a few minutes about an issue he and I feel very strongly about; that is, the best use of American energy and what American energy means to American families.

It seems to me the request our side of the aisle is making is not at all unreasonable. It has been 7 years since the Senate had a real debate on energy. The Shaheen-Portman bill creates that opportunity, but suddenly we were told: This bill is so good already. Why do you want to continue to talk about ways to make it even better? There are very few things beyond energy and health care which I can talk about for a substantial period of time—and I hope to talk about health care sometime between now and the end of the week. Energy has the same kind of impact on families that health care has.

The majority leader wants to control every debate every week in the Senate,

which means nothing happens. That is not the way the Senate works. Traditionally, any Member of the Senate can introduce any amendment they want on any bill at any time. However, that is not the way the House works. I served in the House. The majority runs the House, and the Rules Committee in the House is nine in the majority and four in the minority. It is pretty hard to lose a vote in a 9-to-4 committee. I think that is why the committee was established that way.

The Senate has never been run that way. Now we have a one-man rules committee that wants to decide on every bill and every rule which comes up. This gag rule where Senators can't talk about the topics they want to discuss is something that didn't used to happen in the Senate, but it is now a daily and weekly part of the Senate.

We are now at the point where we go to the majority leader and ask: On the energy bill, could we have five amendments that deal with energy? That is so far from how the Senate and the Constitution was designed to be or the Senate practice has been. It is pretty hard to believe that Senators on the minority are reduced to the point that we have to go to the majority leader and ask: Mr. Leader, could we have five amendments that deal with energy?

When the Energy bill was on the floor of the Senate 7 years ago—the last time the Senate dealt with energy—every Senator could have every amendment they wanted on anything they wanted to talk about because that was the Senate. One of the prices we paid for that 6-year term was we might have to vote on some things we would rather not vote on. Now we have the 6-year term, but the majority leader doesn't want us to vote on things that the majority may not want to vote on, and there are probably people in the minority who don't want to vote either. Not voting is a pretty safe route apparently politically, but it is not the best route for the country.

I would like to see a real debate on energy, and one of the issues I would like to see debated is the amendment I offered to this bill to have a point of order to be sure that at least 60 Senators would have to approve a carbon tax.

I offered a similar amendment to the budget last year, in 2013, and 52 of my colleagues agreed with me, and we had a majority vote of 53 who said we don't want to have a carbon tax, but if we do have a carbon tax, it needs to be extraordinary because it affects everybody's utility bill. It affects everybody's ability to pay that bill. It affects whether a person has a job with a paycheck that allows them to pay that bill. Fifty-three of my colleagues, including myself, said we don't want to do that.

Several people who voted against that amendment in 2013 have had a hard time explaining why they were against it, so I thought maybe we would vote on it again. I think we would have more than 53 votes this time. If we don't vote this time, we are more likely to have a lot more than 53 votes next time because the American people get it.

For the vast majority of the country, half of the utilities come from coal. Rules that create a carbon tax—the simple focus of that is coal, and the focus is fossil fuels generally. The Germans are buying resources from us because they are abandoning their nuclear facilities and converting to coal-fired powerplants.

We have a lot of coal and, more importantly, we have a lot of coal-powered plants. If we could say, let's not use coal, but our utility facilities work just like they work without having to take millions of dollars for new investments, that would have a different kind of impact on families than saying, let's not only not use coal, let's build a new powerplant everywhere they have a coal powerplant because otherwise the utility bills will double when we build a new powerplant. When we build a new powerplant, the utility bill is going to double.

Also, why would we want to have even the access to a policy that would allow people's utility bills to double? Middle-income families, low-income families are the hardest impacted by that, especially in States such as my State, where 80 percent of the utilities come from coal; but, again, a majority of the utilities come from coal in a majority of the landmass of the country. Our rates would rise 19 percent in the first year with a carbon tax or the kinds of rules the regulators are trying to put in place that would have a carbon tax-like impact, and in the decade after that first year they would double.

One doesn't have to be very smart to multiply a utility bill by two. If the boss showed someone the utility bill at work, they wouldn't have to be a genius to multiply that by two, and they wouldn't have to be a genius to figure out that if the utility bill doubles, the job that helps them pay their utility bill at home might go away as well.

It would cause significant job loss. It would cause households to pay more for all of the energy they have. They already pay a lot for energy. For the 40 million American households that earn less than $30,000 a year, they already spend more than 20 percent of their income on energy. Do we want those families to continue to see that bill go up and every month wonder what they could have less of so they can pay more for the same utilities, and not because it had to be that way but because the government decided it wanted it to be that way? The households that will be the last households to get the new energy-efficient appliances, the last families to get the new windows and the better doors and more insulation in the ceiling, those are the families impacted in a dramatic way. Those are the families who live in houses where they have to think: Which room can we no longer afford to heat or no longer afford to cool in the heating and cooling months of the year, when we will have to close that door and roll up the throw rug and put it at the base of the door so the heat and cooling no longer impacts that room? Do we want families to do that so we can have a carbon tax, so we can have bad energy policies?

We can do a better job by making American energy more affordable and more accessible, not making it less so.

What is wrong with having that? I heard my friend from Massachusetts say earlier that we are insisting on a controversial amendment on the Keystone Pipeline. So what. What is controversial about it? A majority of us say we are for it. Controversy would mean people must feel strongly the other way, so they can vote against it.

Let's let the American people know where we stand on these issues. Are we going to do smart things about more American energy or not? The energy future of the country is so good that in spite of everything the government has done to slow it down, it still has been a major economic driver.

I would like to see us vote on the Keystone Pipeline. I would like to see us vote on the carbon tax, whether that is a good idea or not. I would like to see us vote on what kinds of facilities we need to secure our energy position in the world economy.

There shouldn't be anything wrong with these amendments. Senators shouldn't be stopped with a gag rule from the majority leader's office of what we can and cannot talk about. The idea that we can't have energy amendments on an energy bill should embarrass every single Senator here and concern everybody we work for. Hopefully, we will be able to move forward with debate on an energy bill that is actually about energy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, let me first say to my good friend from Missouri, I plan to talk about energy, the very thing he is talking about. If we go back and look logically, if we are dependent upon fossil fuels for 75 percent of our ability to run this machine called America, and we extract that, what is going to happen? I think we all know what is going to happen and I think people need to be forewarned.

I am going to tee this up by talking a little bit about President Obama's climate assessment meeting he had yesterday. All of these people were talking about the world coming to an end, the report he came out with—let me, first of all, ask unanimous consent that at the conclusion of my remarks, the Senator from Delaware be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. The whole idea in this report by design is to spark fear in the American people so they will go along with the administration in implementing their policies that will kill

fossil fuels and leave us with nothing but a broken economy. When I say broken economy, if, in fact—and no one would refute this—we are dependent upon fossil fuels—coal, oil, and gas—for 75 percent of the energy to run America, then what is going to happen to our economy if we extract 75 percent? I think we all know logically what is going to happen.

In the words of White House counselor John Podesta this morning: ''The American public doesn't feel that sense of urgency about the impacts of climate change and I think this report will help influence that.'' That is nothing but an admission. The whole reason for this report is to try to resurrect the issue of global warming. We heard my good friend from Massachusetts talking about that. He is very knowledgeable, and I will refer to some of his activities in a minute.

But keep in mind, this is John Podesta. It is the same John Podesta who is representing some of the terrorist regime from Sri Lanka that is no longer in effect. He is the same one who ran the White House during the Clinton years. So he comes from a very partisan perspective. But nonetheless, I appreciate the fact that he is admitting this is the reason for the climate assessment President Obama did yesterday, because he wants to try to bring this up again.

I can remember back when the polling showed that global warming was either the No. 1 or No. 2 of the environmental issues in America. Do we know where it is now? It is No. 10, according to the last Gallup poll. So people have forgotten about it. People have caught on. They have seen the scientists come in and refute all this IPCC stuff that the United Nations has been putting forth for a long period of time. I think it is a recognition that people have caught on to this and it is no longer the issue they want it to be.

Whether it is a drought or a flood, high temperatures, low temperatures, you can't find a job, you are finding more allergic reactions, then the White House blames it on global warming. Fear has always been a tactic the administration and other global warming alarmists have used to spur people into action. Time and time again, when the American people learn the details and the costs of the solutions to global warming that they contend exist, they don't want anything to do with it—and the costs are enormous.

Congress last debated global warming when my good friend, now Senator MARKEY, was in the House of Representatives. It was the Waxman-Markey cap-and-trade bill. This bill would have cost, according to Charles River Associates—and I think people recognize them as authentic—between $300 billion and $400 billion a year. That is the cost. I would contend this would be the largest tax increase in the history of this country. That is consistent with other analyses. One was the Wharton Group and many of the scientists there who were making evaluations came out with the same thing: between $300 billion and $400 billion a year. MIT came out with about the same amount of between $300 billion to $400 billion a year. The cost estimate has been the same over the last 15 years since we first started debating this issue. I don't think anyone is challenging that.

But what is important—and this is kind of in the weeds, but we have to talk about this: I applaud Senator MARKEY for at least the levels of pollution—of emissions, I should say—that come from different sources that he was wanting to regulate, and that was those with 25,000 tons of $CO_2$ emissions or more. That would be, quite frankly, the major emitters, the refineries and all of that. Here is the problem we have today. It is far worse than the Waxman-Markey bill would have been, because it wouldn't call for the regulation of just those entities that emit 25,000 tons or more, but the same as the Clean Air Act.

The Clean Air Act has a threshold of 250 tons of greenhouse gases a year. Stop and think about that: If it costs between $300 billion to $400 billion to regulate the emitters who emit 25,000 tons of $CO_2$ a year, how much more if we regulate everyone with 250 tons? It has never been calculated. It would be very difficult. But we are talking about billions and billions of dollars more. So the regulations are far worse.

The first of these regulations now being developed is the New Source Performance Standards for newly constructed powerplants. The rule would essentially make it illegal to build new coal-fired powerplants. That is what it was designed to do.

The next step would be to take the existing powerplants—those that are employing hundreds of thousands of people in America today—and they would be out of a job. So that would go to the refining industry, and so forth, and establish new regulations for each and every industry. These greenhouse gas regulations mark the latest attempt by the EPA to destroy affordable and reliable electricity and energy supplies that have been the hallmark of our economy for a long period of time. They are already doing it in other areas too. It is not just regulating the greenhouse gas emissions or $CO_2$ emissions; it is other regulations that are unbearable.

This one right here—they are talking about changing the ocean regulation. This chart is an interesting one because this shows that virtually every county in America would be out of attainment with their new goals. In my State of Oklahoma, we have 77 counties. All 77 counties would be out of attainment if they are able to do that.

In 2011, the EPA finalized its utility MACT. By the way, that stands for maximum achievable control technology. That is what we are talking about. So they passed this. Now it is passed. It is history now. They finalized utility MACT with a rule that costs over $100 million and would result in 1.65 million lost jobs.

The EPA put this rule out without even considering the cost of it, saying it wasn't required to do so. In other words, the law does not say they are required to say what it costs. I take issue with that. They estimated the rule would result in the retirement of less than 10,000 megawatts of electricity generation, but today we know the power companies around the country have announced the retirements totaling more than 50,000. So they are off by 500 percent. Fifty thousand megawatts in direct response to the EPA regulation.

By the way, when we had the utility MACT, I filed a CRA, and this is something I want to make sure people are aware of, and certainly my colleagues and friends on the other side of the aisle. On all of these regulations, when they reach the point where the regulation is final—and we know for a fact it is going to cost dollars and it is going to cost jobs—I am going to file a CRA. A CRA is a Congressional Review Act. A CRA provides that if there is a regulation—and I hear so often my colleagues in the Senate will say to their constituents, Don't blame me for these regulations because that is the regulatory—that is the EPA and other regulators doing it. But a CRA forces them to take an issue. So all one has to do is find 30 people in the Senate, have them sign a CRA, file the CRA, and then it is simply a simple majority—51. In the case of this utility MACT, I only lacked three votes for stopping that rule. So we anticipate that we are going to be able to stop a lot of these rules.

In about 10 days, the EPA is poised to propose another new rule, the 316(b) cooling water intake rule. This rule is designed to protect fish from being caught and killed in nets designed to prevent them from entering powerplant systems. While the rule doesn't have any human health benefits, it is expected to cost industry over $100 billion in compliance costs, which, of course, will be passed on to everyone in America who ends up paying these bills.

The North American Electric Reliability Corporation, which is called NERC, has warned that this rule will have a far worse impact on electricity affordability and reliability than the utility MACT did. We know it will.

In fact, the FERC Commissioner recently said that because of EPA's rules, the United States is likely to see rolling electricity blackouts over the summer months in the next few years as demand for electricity outstrips the supply remaining after all of the powerplant shutdowns that are slated to occur in response to EPA's rules.

The EPA has been systematically distorting the true cost of its regulations for years, and I have been raising this as an issue for some time now, but it has been very difficult to air them out before the entire Senate simply because at this point the sole goal of the

Democrats seems to be to protect their majority.

If we look at this chart, this was prior to the 2012 election. What we found they were doing, prior to the 2012 election, was postponing many of these very onerous regulations because they knew we would be doing a CRA and the public would know who is responsible for these. They had postponed this. This is a report I put out in October 2012, and that was to try to force the administration to not wait until after the election to come out with their rules. That is what they did.

They are doing it again. Last week I released documents revealing that the EPA intentionally delayed the release of its greenhouse gas new source performance standards—that is the NSPS—by 66 days in order to avoid it being finalized before the midterm elections—the same thing as 2012.

I also sent a letter to Gina McCarthy, who is the Director of the Environmental Protection Agency, asking why the rule was delayed, especially when she had previously told me it was the result of a blacklog in the Federal Register. In other words, she was saying: The Federal Register did not post this rule until 66 days after we gave it to them. We checked with the Federal Register, and they said that is absolutely false. They have an immediate turnaround for these rules.

So now I am waiting for a response to that letter. I do not want to use the ''L'' word. I know there is a lot of pressure put on the employees and certainly the Director of the EPA to try to minimize what the public feels is going to be the cost of these regulations.

Had the EPA stuck with its original timeline of finalizing this rule by September 20 of this year, then I would have been able to work with my colleagues to force a Congressional Review Act vote to overturn the rule just weeks before the election. Then people would know the cost of these things.

But what we could do right now is vote on a few of the amendments. Our Senator from Missouri was talking about these amendments. We have a bill that is coming up. We have amendments that should be considered—all having to do with energy, so they are all appropriate amendments to offer, as he articulated for about 10 minutes a few minutes ago.

I have some amendments that would do this. He mentioned one of them that he and I are together on. But one of my amendments is amendment No. 2977, entitled the ''Energy Tax Prevention Act of 2014.'' It simply prohibits the EPA from promulgating any greenhouse gas emissions regulations to combat climate change because they are denying this is the reason they are doing it. Of course we know what has happened to the science they are relying on through the United Nations that has now been refuted.

The second amendment I have is amendment No. 2979. It would prevent the EPA from issuing any new Clean Air Act regulations—such as those on climate change—until it complies with section 321(a) of the Clean Air Act. Let's keep in mind, this is the Clean Air Act, as shown on this chart. We are talking about decades ago. This is what the Environmental Protection Agency is supposed to do:

> The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this chapter. . . .

It is saying they are supposed to already tell the public what the cost is in terms of jobs and money. That is the law, but they are not obeying the law. So I have an amendment that puts teeth in it and says you cannot have any new rules until you comply with section 321(a) of the Clean Air Act. Very reasonable, and it is the law today.

Unfortunately, the EPA is not interested in doing this. With the Utility MACT rule, it completely dismissed the rule's cost and did not consider it when putting out the rule.

The EPA acted in contradiction to Supreme Court precedents that decisionmakers are required to ''weigh advantages against disadvantages, and disadvantages can be seen in terms of costs.'' That is the U.S. Supreme Court.

The PRESIDING OFFICER. The Senator has consumed 15 minutes.

Mr. INHOFE. Madam President, I ask unanimous consent that I be given 5 more minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INHOFE. I have to get to the last part. Rather than to face these issues head-on, I am going to share something that happened last year and then again this year. There is a very wealthy person named Tom Steyer. Tom Steyer has a mansion that overlooks the Golden Gate Bridge. He had a fundraiser for Barack Obama last year, raising a lot of money, but the one I am more concerned about is the fundraiser he had when he announced—this is just within the last month—Tom Steyer, a very wealthy person, said he was going to personally donate $50 million and raise an additional $50 million to try to do two things. One is to resurrect this whole idea on global warming since the people do not care about it anymore. As a result of that, we had an all-night vigil. Remember that? That was right after Tom Steyer made his announcement.

The second thing he is mandating is to kill the Keystone Pipeline. There is a lot of money out there. The regulatory burdens already being placed on this country are enormous, and the cost of regulations are, perhaps arguably, the worst problem facing this country.

Last week the Competitive Enterprise Institute published a major report calculating the cost of the President's regulations at $1.86 trillion. To put that in perspective, Canada's entire GDP is $1.82 trillion. India's is the same amount. So that is what the cost would be, according to the Competitive Enterprise Institute.

People know what has happened to the military with this administration, they know what has happened to energy, but the cost of these regulations is something that is going to have to be addressed.

Lastly, I would say this. I know there are people out there who legitimately believe greenhouse gas is causing global warming and the world is going to come to an end, but I would suggest this: Lisa Jackson was the Administrator—chosen by Barack Obama—the first Administrator we had for the EPA. I asked her this question, on the record, live on TV. I said: Madam Administrator, if we were to pass bills like the Markey-Waxman bill or regulate by regulation the $CO_2$ in the United States of America, would this have the effect of lowering the $CO_2$ emissions worldwide? She said: No, because that is not where the problem is. It is in China. It is in India. It is in Mexico.

In other words, if you believe—as I do not believe—but if you believe $CO_2$ is going to bring about the end of the world, then even if we do something in this country, it is not going to solve the problem. Arguably, it would make the problem worse because as we lose our manufacturing base, they are out seeking electricity and energy from countries where they do not have any of these regulations, and that would have the effect of increasing, not decreasing, emissions of $CO_2$.

With that, I yield the floor and thank my friend for not objecting to my additional time.

The PRESIDING OFFICER. The Senator from Delaware.

BULLETPROOF VEST PARTNERSHIP

Mr. COONS. Madam President, our Nation's police officers work fearlessly and tirelessly every day to protect our families and to keep our communities safe. As we get ready to honor their service during National Police Week, the least we can do is stand by them and ensure, as they are doing their job, they are able to do it as safely as possible.

Every day more than 1 million law enforcement officers across this country accept risks to their personal safety. As they leave their families at dawn and head off to their jobs, they know and their families know they accept, as a part of their mission of public safety service, the risk that they may not come home that night.

We owe it to them to do what we can to make that service just a little bit safer, to ensure that more of them come home safely, week in and week out, year in and year out. Providing officers with bulletproof vests is one of the most effective ways we can contribute to that desired outcome.

I have come to the floor because I share the deep frustration of my good

friend Chairman PATRICK LEAHY over the continued inability of this body to overcome the objection of one Senator and move forward to renew, on a bipartisan basis, the Federal Bulletproof Vest Partnership.

Yesterday, Chairman LEAHY gave the Senate another opportunity to take up and reauthorize this partnership through a unanimous consent request. He is trying to move forward a bill we have already voted out of the Senate Judiciary Committee on a bipartisan basis. Yet it was blocked again by objections raised by a colleague, the Senator from Oklahoma.

For 14 years the Federal Bulletproof Vest Partnership has been an important way for our Nation to equip local police departments with one of the most effective ways to keep our officers safe, but this needs to be a lasting commitment. This needs to be an enduring partnership. As new officers join, they need to be fitted for new vests. Because vests wear out and do not last forever, we need to ensure they can be replaced.

We know bulletproof vests work. Since 1987 bulletproof vests have saved the lives of more than 3,000 police officers across this country. I am proud to continue in the tradition of my predecessor, now-Vice President JOE BIDEN, in supporting local law enforcement and in supporting this initiative.

In my home State of Delaware, this partnership has provided our officers with thousands of vests over the last 14 years, including more than 3,800 over just the last 5 years.

The Delaware community has, unfortunately, seen up close why these vests are so important. It was 13 years ago that Dover Police Sergeant David Spicer was trying to make an arrest—an arrest he successfully completed—when the suspect with whom he was wrestling pulled out a gun from a hidden pocket and shot him at close range four times.

As Sergeant Spicer bled out—he lost nearly half the blood in his body before effecting the arrest—because he was wearing a vest provided to him through the Federal Bulletproof Vest Partnership his life was saved.

I was honored to welcome Dover Police Sergeant David Spicer here 2 years ago on a previous effort at reauthorizing this long bipartisan bill.

More recently—just last February of 2013—at the New Castle County Courthouse, in my hometown of Wilmington, a gunman unleashed a stream of bullets into the courthouse lobby, tragically killing two. On what was a devastating morning in the courthouse lobby, two lives were also saved—those of Sergeant Michael Manley and Corporal Steve Rinehart—Capitol Police officers who were wearing bulletproof vests funded in part through this Federal Bulletproof Vest Partnership.

The very real results of this Federal-State partnership, of this investment in keeping the men and women of law enforcement safe in the line of duty, are hard to ignore.

With many police departments at the local level facing shrinking budgets, this bulletproof vest partnership makes vests, which cost more than $500 apiece, more affordable, ensuring officers are outfitted with the most current and effective and appropriate protection possible.

In fact, the program specifically prioritizes smaller departments that often struggle to afford vests and do not provide vests or require vests for their officers. It is exactly in these smaller and more rural agencies and departments where line-of-duty deaths due to gunfire had historically been high.

This is critical. As a county executive in my previous role in local government in Delaware, I saw firsthand how officers in smaller agencies often struggle to have current, up-to-date, and effective bulletproof vests.

In addition, this is a program that is a 50–50 match with Federal and local money. How could anyone oppose this program that saves thousands of police officers' lives, that extends the reach of the Federal-State partnership in keeping our communities safer, and that is such a wise investment in saving lives that matters so much to our communities?

A colleague objected yesterday, has objected before, and will object again. I am reminded of so many times when a bipartisan bill comes to this floor and dies due to objection after objection after objection, and at times I struggle to understand the rationale. In his objection yesterday, my colleague raised an argument that somehow this program, which promotes public safety, does not fit within the authority granted to Congress under the Constitution, that it is not part of the enumerated powers of Congress.

I disagree. Whether you ascribe to the narrow Madisonian view of the general welfare clause in the Constitution or follow an expansive or Hamiltonian view—as our Supreme Court has done since 1937, when they affirmed the constitutionality of the Social Security Act in Helvering v. Davis—this is not a close call.

If providing Federal-State partnership money for bulletproof vests goes beyond the enumerated powers of this Congress, what does that mean for public health, for investments in partnerships with State public health agencies to prevent pandemics and flus? What does this mean for the Interstate Highway System? What does this mean for hundreds of different partnerships where, in a cost-effective way, we work together with communities and States all over this country to extend and improve the general welfare of the people of the United States?

To my colleague's argument today on this floor that this is solely a State or local responsibility, the reality is that the Bulletproof Vest Partnership does not replace local action with Federal action. It ensures a Federal partnership, an investment, to help police departments struggling to meet the safety needs, the equipment needs of their officers, to act when they otherwise cannot.

In my view, the partnership is even more important because it is about more than just handing out dollars and vests. It ensures all vests are compliant with National Institute of Justice safety standards. Only the Federal Government has the resources to do that level of analytical work. It is no more reasonable for us to expect every State to have their own National Institutes of Health to do cancer research or for every State to have a National Highway Traffic Safety Administration.

Having one coordinated national program to ensure that these bulletproof vests are as effective as possible at saving the lives of the men and women of law enforcement just makes sense. In my view, the denial of the Federal role where it is necessary and efficient would take us back to the Articles of Confederation, a very cramped and narrow view of the appropriate role of our national government, one which our forefathers found unworkable two centuries ago.

The truth is plain. Without this program, we leave police officers without lifesaving vests in the line of fire, in the line of duty. For us to fail to stand up for them, when they stand up for us each and every day, I find outrageous. This is the way the world looked before Chairman LEAHY and Republican Senator Campbell created this program jointly back in 1999.

In that world, before there was a Federal Bulletproof Vest Partnership, there would today be two more Delaware families without a hero at their dinner table tonight. Not on my watch. That will not happen as long as I am here to stand for the men and women of law enforcement and to promote the Federal role, an appropriate Federal role, in standing side by side with State and local governments to provide the equipment the men and women of law enforcement need.

This partnership expired back in 2012. Fortunately, we have been able to fund it through short-term appropriations. This is a tiny program in the scope of this Federal Government: $22 million a year. The entire Federal investment in local law enforcement is less than one-tenth of 1 percent of the entire Federal Government. Yet it enables standards and leveraging of the type I described that extends the reach of law enforcement and improves the safety of the men and women who put their lives on the line for us. Without authorization, this program becomes unsustainable short term and does not allow us to improve the program year in and year out. The reauthorization bill that was passed by the Judiciary Committee this Congress extends the program another 5 years, ensures its consistency, but makes important reforms to save money, as well.

It prevents localities from using other Federal grants as their matching

funds. It takes action to eliminate the Justice Department's backlogs. The bill would require agencies using the program to have mandatory wear policies, and would, for the first time, ensure these lifesaving vests are fitted appropriately for women, at a time when there are more and more women in law enforcement and more often at the very front line of protecting our communities.

This bill is fiscally responsible. Enacting this bill is a moral responsibility. Police officers work to keep us safe every day. Congress can and should do the same for them. Congress should be standing with our law enforcement officers, not standing in their way. I applaud the persistent leadership of Chairman LEAHY and will stand with him as long as it takes to get this program back on track and ensure its long-term survival.

While this program had a long history of bipartisan support and passed out of the Judiciary Committee with a number of Republicans voting for it, a few of our colleagues on the other side of the aisle now do not seem to think this investment in officer safety is an appropriate one for this body and this government to make.

Last year our Nation lost 33 police officers in the line of duty killed by gunshots. According to the National Law Enforcement Officer's Memorial Fund, there is some reason to be cheered because this is the smallest number lost in a year since the 1800s. Those 33 deaths—line-of-duty deaths of men and women shot to death while protecting their communities—is 33 too many. We have an opportunity to continue to provide to State and local law enforcement vests that can save these and other lives.

We should continue working tirelessly until those numbers come down to zero. In recent months, I have been proud as this body has come together across the partisan divide, has passed a budget bill, an appropriations bill, a farm bill, has begun to deal with some of our Nation's most urgent needs. But I am distressed by this particular action, to block even consideration of so small a program with such important consequences, and it is to me profoundly disheartening. I call on my colleagues to stop blocking this bill and to allow this body to debate and to pass this reauthorization that will save lives in law enforcement this year and every year going forward. We owe them no less.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. BALDWIN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BARRASSO. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARRASSO. I ask unanimous consent to be able to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. BARRASSO. Madam President, I come to the floor to talk once more about the negative side effects of the President's health care law.

President Obama has been spiking the football over the number of people who he says have actually signed up for insurance through his exchanges. He also said that Democrats should forcefully defend and be proud of the health care law.

He has had nothing to say to the Americans who are seeing their premiums increase.

This Washington mandate insurance is loaded up with so many specific mandates that unless you get a massive taxpayer subsidy, it is just not affordable for many families across this country.

For some people the insurance gets even more expensive, even less affordable, depending specifically on where you live.

Insurance companies used to base your premiums on a lot of different factors, like how likely you were to use insurance, and different things specific to how you would use medical services.

The Obama health care law took away some of that and replaced it with what they call a community rating. Now there are only a few factors that can be used to set people's premiums, and where you actually live is one of those. Your premiums used to be based on you, but now they are based on your neighbors and how likely your neighbors are to use their own health insurance. What we are seeing is all across the country people are paying more specifically because of where they live.

The Associated Press ran a story on this last month. The headline was ''Rural residents confront higher health care costs.''

The Associated Press quoted a rancher in Colorado whose premiums had jumped 50 percent—to about $1,800 a month. The rancher said:

> We've gone from letting the insurance companies use a pre-existing medical condition to jack up rates, to having a pre-existing ZIP code being the reason health insurance is unaffordable.

As this rancher said, ''It's just wrong.''

I agree, so I looked into this, and here is what I found. Some of the lines are drawn so that people just down the road or even people on different sides of the street can pay wildly different premiums. These are people of exactly the same age, and these are people who are buying the lowest-cost silver plan.

The President likes to talk about income inequality, but the President has created a new kind of insurance inequality. It is not only rural areas like where that rancher lives in Colorado.

In Louisiana in one community the premium for the lowest-cost silver plan in the ObamaCare exchange for a 40-year-old person who doesn't get a subsidy would be $255 a month. But if you live right across the street—right across the street—the premium for that same person, same age, same lowest-cost silver plan, would be $311 a month—22 percent higher, $56 more a month, just because you live on one side of the street instead of the other side of the street, under the President's health care law. That is $672 a year. That was Louisiana.

Now let's take a look at North Carolina, with the same situation. If you live on that side of the line, if your ranch house or farm house is over there, it is $263 a month. Just down the road, the other side of the line, it is $319 a month. Again, it is $56 more a month or $672 more a year for the same individual. All they would have to do is move from that side to this side and they would either save or pay that much more. It is 21 percent more expensive on one side than the other.

Is this fair? The Democrats talk about fairness all the time. Democratic Senators have come to the floor to talk about giving everybody a fair shot. Do those Democrats who passed this health care law, who voted for the law, think that in that county in North Carolina they are getting a fair shot depending on which side of the line they live? Does the Senator from Louisiana believe that they get this fair shot on either side of the line? Does President Obama believe that these people in North Carolina or Louisiana are getting a fair shot?

Why did the Democrats in Washington create a law that penalizes people based on on which side of the street they live?

Here is another example—Arkansas. Here we have an area, one side of the line or the other. On this side of the line it is $263 per month and on this side $294 a month—same age, same situation, no matter which of side of the line you live on—$31 a month more expensive.

Are those people in Arkansas getting a fair shot from the President's health care law? For too many people in places such as Colorado, Louisiana, North Carolina, and Arkansas, the costs of the President's health care law are unfair and are too high. Sure, there are some people who are being helped, but there are a lot of people who are being hurt by the President's health care law, people who are feeling the negative side effects of the law.

Why don't Democrats admit this? Why don't they admit that the health care law is not giving people a fair shot?

The President says: Forcefully defend and be proud. Why aren't the Democrats in this Senate who passed this law coming to the floor to defend the fact that for millions of people in Arkansas, Louisiana, North Carolina, Colorado, and all across America, the premiums are too high. The health care law is too expensive for families, and it is also too expensive for a lot of employers.

There was an article in the Denver Post last week entitled: ''Health law

presents options, challenges for Colorado's small businesses.'' The article tells the story of a small business in Denver that sells cardboard boxes.

According to the article, the owner of this business has offered insurance to his workers for three decades. To get a policy that meets the new mandates of the President's health care law was going to cost 50 percent more than they had been paying in the past.

The article says, ''About half of small businesses in Colorado are seeing double-digit premium increases'' because of the law.

Double-digit premium increases are not what Democrats promised from their health care law, and it is not what the American people wanted. People wanted something very simple from health care reform. They wanted better access to quality, affordable care.

Instead, Democrats gave Americans higher costs and unequal treatment. It is not a fair shot. It is not what American people wanted, what they needed, and it isn't working.

Americans don't need a law that Democrats voted for without ever reading it, and it is a law that raises their premiums, a law that NANCY PELOSI said: Hey, first you have to pass it before you get to find out what is in it.

Republicans have offered a patient-centered approach that would solve the biggest problems facing families: the cost of care, access to care, and ownership of their policies. That means allowing small businesses to pool resources in order to buy health insurance for their employees. It means letting people shop for health insurance in other States and buy what is actually best for them and their families. It means reforming our medical liability system to give patients fair compensation for tragic mistakes, while ending junk lawsuits that drive up health care costs for everyone. It means adequately funding State high-risk pools that help sick people get insurance without raising costs for healthier individuals.

These are just a few solutions Republicans have offered, just a few of the things that we will do to give Americans real health care reform and a real fair shot—health care reform that gives people the care they need from a doctor they choose at a lower cost without all the negative side effects.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. VITTER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—H.R. 3521

Mr. VITTER. Madam President, I come to the floor to speak about an issue we should all be concerned about, the State of veterans health care in our VA hospitals, our VA clinics, our VA system, and around the country.

I have been concerned about this for some time, working very hard on getting outpatient clinics built in Louisiana—new ones, expanded ones, in particular, in Lafayette and Lake Charles.

I am a member of a bipartisan working group on VA backlog issues, and we have made substantial progress through that bipartisan group. We have also introduced legislation to deal specifically with that VA backlog crisis.

As we work on those things, unfortunately, the news out of the VA gets worse and worse, and the need for real progress on these fronts—including the community-based clinics I am going to talk about in Louisiana and elsewhere—that need gets more and more dire.

Think about the recent reports. CNN and others have reported that in Arizona at least 40 U.S. veterans died—died—waiting for appointments at the Phoenix VA health care system. Many of these were placed on a secret waiting list. The secret list was part of an elaborate scheme designed by the VA managers in Phoenix who were trying to hide the fact that 1,400 to 1,600 sick veterans were forced to wait months to see a doctor.

There is an official list that is shared with officials in Washington. That official list shows that the VA has been providing timely appointments. The problem is, you don't get on that official list, in some cases, until you have waited months and months and months on the secret list that is hidden from Washington, that was hidden from the world, and that was hidden from outsiders until the news media broke the story. So 40 of those veterans died waiting for appointments through this abuse.

In Colorado, USA Today and others reported that clerks at the Department of Veterans Affairs clinic in Fort Collins were instructed last year about how to falsify appointment records so it appeared the small staff of doctors was seeing patients within the agency's goal of 14 days—the exact same abuse, the exact same type of scheme, but different details. Many of the 6,300 veterans treated at the outpatient clinic waited months to be seen, but that was hidden through this scheme.

If the clerical staff had allowed records to reflect that veterans waited longer than 14 days, they were punished by being placed on the bad boy list, the report shows. So, again, it is exactly the same fraud and abuse, the same scheme, designed to hide the real waits that veterans in these places and in many other places around the country are subjected to.

We see these horrible abuses. We see these examples with increasing frequency. It has gotten so bad that the head of the American Legion and the head of the Concerned Veterans for America on Monday called for Secretary Shinseki to resign and called for members of his top leadership to resign with him.

The calls for his resignation came after months of reporting that I have been talking about—U.S. veterans who have actually died waiting for care at VA facilities across the country. It came after these reports about Phoenix. It came after these reports about Colorado.

The heads of these organizations did not rush into a public call for his resignation. They did not take that lightly. That is virtually and perhaps completely unprecedented, but they did that on Monday. They called for the Secretary's resignation. They called for it publicly, and they called for several of his leadership team to resign with him. That is how bad it has gotten.

Yet in the midst of this, rather than responding to this crisis in any way we can, as quickly as we can, we have important matters hung up on pure politics on the Senate floor. Specifically, I am talking about my proposal to move forward with 27 community-based clinics around the country, including the two vital new and expanded community-based clinics that we need to move on, approve, and build in Louisiana, in Lafayette and Lake Charles.

These clinics around the country—and particularly the two in Louisiana, in Lafayette and Lake Charles—have been hung up through one bureaucratic screw up after another. These should have been built by now.

First, in terms of our two Louisiana clinics, the VA messed up how they let out the contract, and that caused them to pull back. It was their mistake, pure and simple. They have admitted that freely, and it cost us 1 year in terms of moving forward with those clinics.

After that mistake was corrected—after the loss of 1 year of waiting—then the CBO decided that they were going to score these clinics in a completely new way, something they had never done before, and that caused a ''scoring'' or ''fiscal issue'' with regard to all 27 of the community-based VA clinics around the country that I am talking about. That further delayed progress.

Finally, after these two major delays, leaders in the House got together on a bipartisan basis—and I want to commend my Louisiana colleagues in the House, in particular led by Congressman BOUSTANY and others—to fix this scoring issue. They put together a reform bill and they got it approved by the House overwhelmingly, with one dissenting vote. In today's environment, resolutions to honor Mother Teresa don't pass the House of Representatives with only one dissenting vote, but they did that.

So it came over here, and I worked to address some small issues and objections that existed on the Senate side through a perfecting amendment which I have at the desk. I worked very hard for weeks to clear up those objections so we could move forward with this noncontroversial measure. Because of that, we have the unanimous support of the Senate—not one single objection to moving forward with these 27 community-based VA clinics around the

country. There is not one single objection related to the substance of that proposal—not one.

The only objection now has been from the distinguished Senator from Vermont who objects to moving forward with this focused proposal because the Senate does not agree unanimously or near unanimously with his much larger bill that encompasses dozens of VA issues. Again, I have pledged to and I will work with the Senator on those broader issues. I have been working hard on those issues, including these clinics, including being an active member of the bipartisan working group on the VA backlog issue. I will continue to work on that. But the fact remains his larger bill has substantial opposition. There are around 46 Senators—excuse me, around 44 Senators who oppose that larger bill.

In the meantime, I think we should agree on what we can agree on. We should make progress on what we can make progress on, starting with these 27 clinics. Veterans have been dying around the country because of these ridiculous waits and the fraud and abuse involved in hiding these waits. These 27 community-based clinics will directly help address veterans who are waiting for months and months in some cases, waiting for medical treatment. It will directly alleviate that issue in the communities in 18 States where these clinics will be located. There is a significant number of communities in a significant number of States. So let's agree on what we can agree on. Let's make that significant progress. Let's keep talking and working on the rest.

Last November Senator SANDERS seemed to agree with that principle and that way of moving forward. In talking about another Veterans' Affairs piece of legislation, he said, on November 19 of last year, ''I'm happy to tell you that I think that was a concern of his.''—talking about another of our colleagues—''We got that UC'ed last night.''—unanimous consent—''So we moved that pretty quickly, and I want to try to do those things. Where we have agreement, let's move it.''

To repeat from that quote: '' . . . I want to try to do those things. Where we have agreement, let's move it.''

That is all I am asking for. We are not going to agree on everything immediately, but we can agree on important things right today, right this hour, right this minute. We do agree on 27 important community-based clinics in 18 States around the country, including 2 in Louisiana—Lafayette and Lake Charles, LA—that Senator LANDRIEU and I represent.

I want to try to do those things where we have agreement. Let's move it. And that can start right this minute in a productive, positive way with these 27 community-based clinics around the country. So let's agree on what we can agree on. Let's move on this important clinic issue.

Leaders of national groups—American Legion, American Vets, DAV, Paralyzed Veterans of America, and others—think the same. That is why they wrote a letter on June 10 of last year—June 10 of 2013—saying these community-based clinics are important. Let's come together, work together, and move specifically on these community-based clinics. They are important.

I ask unanimous consent to have printed in the RECORD the letter of June 10 to which I just referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 10, 2013.

Hon. HARRY REID,
*Senate Majority Leader, Washington, DC.*
Hon. JOHN A. BOEHNER,
*Speaker of the House, Washington, DC.*
Hon. MITCH MCCONNELL,
*Senate Minority Leader, Washington, DC*
Hon. NANCY PELOSI,
*House Minority Leader, Washington, DC.*

DEAR LEADERS OF CONGRESS: We write you, as leaders of Congress, to urge you to work together to prevent a looming problem that over the next several years may harm the health of more than 340,000 wounded, injured and ill veterans in 22 states who will be in need of care provided by the Department of Veterans Affairs (VA). Without your intervention, these veterans are in jeopardy of losing that important health resource.

Since the 1990s, Congress has helped improve VA health care access and patient satisfaction by authorizing and funding nearly 900 VA community-based outpatient clinics. These are important facilities for local, convenient, and cost-effective primary care for millions of veterans. Unfortunately, a policy shift by the Congressional Budget Office (CBO); in 2012 has effectively halted Congressional authorization of leases for such new clinics. Also, as old leases expire and need reauthorization in future years, this CBO decision jeopardizes existing VA-leased health, research and other facilities.

Last year, CBO announced it would redefine 15 VA-proposed leases as ''capital'' leases and would treat them as current-year mandatory obligations, costing more than $1 billion altogether over a 20-year period. In order to advance these leases to approval, House budget rules would have forced an offset to equal the cost of these leases with an unrealistic Fiscal Year (FY) 2013 reduction in mandatory veterans' programs. Since no such accommodation could be made in a single year, and VA had not addressed such an offset in its FY 2013 budget, the proposed lease authorizations were dropped from the authorizing bill. These 15 proposed community facilities are now in limbo, and veterans are not being served.

This unexpected challenge will not resolve itself absent action by House and Senate leadership to ensure Congress continues to authorize leases of local VA community-based outpatient clinics and other VA facilities when such approvals are needed. Also the VA warns that over time numerous existing leases will be expiring. Lack of reauthorization could result in closures of current clinics. Newly proposed clinics without lease authorization cannot be activated. Costs of veterans' VA care will be rising while they face longer travel and more waiting for needed treatment, or they may be forced to go without treatment.

Committee leaders with jurisdiction over the VA have pledged to solve this problem, but no resolution has emerged since CBO's determination, made nine months ago. Without leadership intervention, these promised clinics and more in the future cannot be activated or will be shut down, and wounded, injured and ill veterans in need will be denied VA health care.

The CBO's policy must be reversed or otherwise addressed in consultation with VA and the Office of Management and Budget. We ask that you take action that results in Congressional authorization of the 15 clinics still in limbo since 2012, the additional ones proposed earlier this year in VA's budget for FY 2014, and in general to find the means to allow VA's leased facilities to continue to provide flexible, low-cost VA care to wounded, injured and ill veterans. The current situation is unacceptable and must be remedied.

We appreciate your support for America's veterans and look forward to your response.

Sincerely,

PETER S. GAYTAN,
*Executive Director, The American Legion.*
BARRY A. JESINOSKI,
*Executive Director, Washington Headquarters Disabled American Veterans.*
ROBERT E. WALLACE,
*Executive Director, Veterans of Foreign Wars of the United States.*
STEWART M. HICKEY,
*National Executive Director, AMVETS.*
HOMER S. TOWNSEND, Jr.,
*Executive Director, Paralyzed Veterans of America.*

Mr. VITTER. These groups agree with what Senator SANDERS said last year and they agree with what I am saying today: Let us come together and move on those things we can agree on, and they specifically wrote the Senate leadership about these community-based clinics.

That leads to my unanimous consent request, which is to adopt this spirit of agreeing where we agree, getting things accomplished whenever and wherever we can, and continuing to work on the rest.

I ask unanimous consent the Veterans' Affairs Committee be discharged from further consideration of H.R. 3521 and the Senate proceed to its immediate consideration; that my amendment, which is at the desk, be agreed to; that the bill, as amended, be read a third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. SANDERS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Madam President, let me touch on a few of the points of my distinguished colleague from Louisiana.

First of all, regarding the allegations against the VA in Phoenix, as we know, these are very serious allegations, and it is absolutely appropriate the inspector general do a thorough and independent investigation of those allegations. As I am sure my colleague from Louisiana knows, the leadership at Phoenix has rejected those allegations, saying those are not true. The Secretary of VA has done what I believe,

and I would hope my friend from Louisiana believes, is the right thing to do, which is to do an independent investigation.

I am not a lawyer, but I did learn enough in school to know you don't find somebody guilty without assessing the evidence. And frankly, just because CNN says something doesn't always make it the case. So what we need is a serious independent investigation into the very serious allegations about Phoenix and any other facility within the VA. I have said I will hold hearings immediately—more than one hearing, if necessary—to get to the truth of the matter regarding the VA situation in Phoenix.

I would also tell my friend that when we talk about the VA, when we talk about health care in general—and I am sure he would agree with me—as a nation we have a whole lot of serious problems, don't we? We have about 30 million people today who have no health insurance at all. Harvard University estimates about 45,000 people die each year because they do not get to a doctor when they should, because we are the only country in the industrialized world that doesn't guarantee health care to all people.

There was a study that came out recently that indicates that some 200,000 to 400,000 patients a year die in hospitals in America because of medical errors, in ways that could have been prevented—200,000 to 400,000 people a year. So, yes, as chairman of the Senate Veterans Committee, I am going to do everything we can do, along with my colleagues, in a bipartisan way to make sure the veterans of this country get all of the health care they need, and get the best quality they can.

This is a very serious issue, and with an independent investigation taking place in Phoenix now, we are going to get to the truth of that.

When we talk about the VA, as I am sure my colleague from Louisiana knows, in fiscal year 2013, the VA provided 89.7 million outpatient visits, and the VA has 236,000 health care appointments every single day. Today, over 200,000 veterans in 151 medical centers in 900 community-based outreach clinics all over this country are walking into the VA to get health care. I assure my colleague from Louisiana that every single day there are problems within the VA. When there are over 200,000 people walking in, there are going to be problems. But I also assure my friend there are problems in every other medical facility in America today as well.

I just mentioned the very frightening situation that, according to a very significant study, we are experiencing between 200,000 and 400,000 patients dying from what are preventable deaths because of hospital errors all over America. My point about saying that is to say, let's put the VA within a broader context. If you want to criticize the VA, fine, I am there with you. You got problems, I will work with you. But let's not paint a broad brush.

The VA has 151 medical centers, they have 300,000-plus employees—many of them veterans themselves—and in my view, and in the view of the veterans community—the veterans associations—the Veterans' Administration is providing high quality care to the veterans across this country.

It is not just me. My colleague from Louisiana may have recently read that an independent customer service survey, done by the American Customer Satisfaction Index—these are people who assess how people feel about medical facilities around the country—found that in 2013 an overall satisfaction rating for the VA was 84 percent for inpatient care and 82 percent for outpatient care, which in some respects was higher than for the hospital industry in general.

For the past 10 years, the American Consumer Satisfaction Index has found a high degree of loyalty to VA among veterans of over 90 percent. I would suspect my colleague from Louisiana finds—as I have found when I talk to veterans in Vermont—and he asks them, as I am sure he does, what do you think about VA health care, veterans will say: You know what. It is pretty good health care. Is it perfect? No. Are there problems? Yes. In general, they think it is pretty good health care.

Mr. VITTER. Madam President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. VITTER. I have a pending unanimous consent request and I would like to inquire how I proceed to have a ruling on that and, hopefully, have it passed through the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. SANDERS. What I am going to do, Madam President, is I am going to object, and I am going to ask for a unanimous consent request on legislation that I have offered, and I want to say a word about that.

I want to ask a question of my friend from Louisiana. My colleague from Louisiana has indicated he wants to work with us. I think I heard that in his statement today, and I applaud that. I am not quite sure he has done that yet, but I look forward to working with him and his staff. I would invite my colleague from Louisiana to come to my office at a mutually convenient time to see how in fact we can work together.

Will my colleague from Louisiana take me up on that offer, I ask through the Chair?

Mr. VITTER. Reclaiming my time, or reclaiming the floor, since my unanimous consent request——

Mr. SANDERS. Madam President, I just asked a brief question of my friend from Louisiana.

Mr. VITTER. Madam President, a point of parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. VITTER. Madam President, I had a unanimous consent request. It has been objected to. May I reclaim the floor and reclaim my time? In doing so, I will be happy to respond to the Senator.

The PRESIDING OFFICER. The request has not yet formally been objected to.

Mr. VITTER. I would again ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 3521 and that the Senate proceed to its immediate consideration; that my amendment, which is at the desk, be agreed to; that the bill, as amended, be read a third time and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. SANDERS. I do object. And I am going to——

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. If I may reclaim the floor and reclaim my time, I would like to respond.

I think it is really unfortunate. As we all agreed to today and in previous appearances on the floor, there is absolutely no objection on the merits of this proposal. The only objection from the distinguished Senator from Vermont is that a far larger bill, which does have significant opposition—around 44 Members, almost half of the Senate—people have concerns about that. So if he can't play the game exactly his way, he is going to take his ball and go home, and he is going to block 27 community-based clinics on which there is no substantive objection, on which the leaders of national veterans organizations have pleaded with leaders of the Senate and House to act in a bipartisan way.

I am particularly concerned that today what I hear is an even higher bar that we are going to have to meet to act on these clinics that are not objected to on their merits.

Previously the Senator from Vermont talked about his far broader bill. Today he talked about all of health care. Apparently I am going to have to agree with Senator SANDERS about all of health care reform before we can move forward on these 27 community-based clinics on which there is no substantive objection.

The Senator from Vermont said he will do everything he can to deal with these issues. Well, we can do something right here, right now, to deal with these issues. It is not solving every problem in the world. It is not solving every problem in health care. It is not solving every problem in the VA. But it is doing something real and meaningful and substantial in 27 communities and 18 States. We can move forward with these community-based clinics. We can try to do those things on which we have agreement. Let's move it. We can do that. That is all I am asking. And I think it is really counterproductive to

take the view that until we agree about all of the VA or about all of health care or whatever, we are not going to do any of that. I think that is really sad and counterproductive.

I will keep coming to the floor. I will keep working on this vital issue. I will keep working on other vital issues. I will keep talking to the Senator from Vermont about his broader bill. But I have to say that these scandals in Phoenix and elsewhere don't alleviate my concerns; they only heighten my concerns about a broader bill that is going to push many more patients, overnight, into a system that is obviously broken.

So I will continue working and talking about it all. I will continue working in the bipartisan working group on the VA backlog. But let's do what we can do now. Let's start with one step and then two and then five, and then maybe we can start to jog and then we can start to run. I think that is the productive path forward.

I urge my colleague to reconsider and let us move forward with these important clinics.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Madam President, unfortunately, I didn't quite hear that the Senator from Louisiana wanted to work with us. So I will have my office call his office and see if we can sit down with our staffs and find out what the Senator's concerns are about the legislation.

It is not BERNIE SANDERS' legislation. It is not the Veterans' Committee's legislation. This is legislation supported by the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Vietnam Veterans of America, the Iraq and Afghanistan Veterans of America, and virtually every other veterans organization in America.

In preparation for the discussion I look forward to having with my colleague from Louisiana, this is not changing the world. This is not legislation that is going to solve every problem in the world. But it does do a whole lot to improve the lives of millions of veterans and their families who are hurting, and I think it is appropriate that we do that. I want my colleague from Louisiana to be thinking about these issues and to come into the office and tell me: No, Senator SANDERS. I disagree.

Does he disagree with restoration of full COLA for military retirees? As he knows, for current people in the military and new people who are coming in, they are going to get less of a COLA than longstanding members of the military. Maybe he disagrees; maybe he doesn't. Let's talk about it.

Does he believe the veterans community—people who go into the VA—should be entitled to dental care? I don't know about Louisiana, but in Vermont that is a very serious issue. All over this country veterans are dealing with rotting teeth, and they can't get that care in VA facilities right now.

There is widespread support for advanced appropriations for the VA. I think virtually all the veterans organizations understand that the VA could do a better job if they had advanced appropriations. I support it. Many people support it. I don't know if my colleague from Louisiana supports it. Let's work together, and I will find out.

The next time we come down to the floor and go through this exercise, we can tell the people what we agree with and what we don't agree with.

On ending the benefits backlog, the truth is that the current VA Administration—General Shinseki and others—inherited a paper system. Can you believe that? In the year 2009 the VA benefits system was on paper—maybe the last remaining system of its size in the world to still be on paper and not digital. What people at the VA have done—General Shinseki and others—is they transformed that system from paper to electronic records. Guess what. The backlog is going down. But that is not good enough for me. We have language in this bill which will make sure the backlog continues to go down.

There is an issue I am sure my colleague from Louisiana is very familiar with: instate tuition. There are veterans from Louisiana who may want to go to school in Vermont or veterans from Vermont who may want to go to school in Louisiana, but they can't get instate tuition. It is a serious problem, and we address it. What does my colleague from Louisiana feel about that issue?

Then there is extending health care access for recently separated veterans. As he knows, we have legislation now that extends free health care to all those who served in Iraq and Afghanistan for 5 years. I think it should be extended for 10 years. Does he agree or does he not agree? The veterans community feels very strongly about that issue.

We have high unemployment rates for returning veterans. We want to do something to expand employment opportunities.

We have the issue of sexual assault—a very serious issue, as we all know—and we want to make sure the VA is providing excellent-quality care to those victims of sexual assault.

We have, in my mind, a really tragic problem. The good news is that a few years ago Congress did the right thing and said to the post-9/11 veterans, those men and women who came home seriously injured: We are going to pass a caregivers act to give support to your wives or your sisters or your brothers who are providing often 24/7 care for you—every single day, long hours—at great stress. We are going to help you.

But what we didn't do is reach back to the Vietnam-era veterans, the Korean war veterans, even World War II veterans. There are families today in which a 70-year-old woman is taking care of her husband who lost his legs in Vietnam, and day after day, year after year she is getting virtually no support from the government.

This legislation has the strong support of the Paralyzed Veterans of America and many other organizations that say we can't ignore those people. I don't know what my friend from Louisiana feels about this. Let's talk about it.

Here is the bottom line. The bottom line is, as I have said many times, I do support the provision the Senator from Louisiana speaks about. We do need these facilities. But we need a lot more. We need cooperation and people coming together.

I believe the Senator from Louisiana said there were 44 people who voted in opposition. He is right. He forgot to mention that there were 56 who voted for this bill, with the support of every veterans organization in America. One person was absent who would have voted for it, so 57 voted for it and 44 voted against it. Unfortunately, in the rules of the Senate, when we have a Republican filibuster, we do need 60 votes. I am looking for three more Republican votes. One of those votes I would very much appreciate receiving is from the Senator from Louisiana. That would make me two votes shy. And we think we are making some progress with some other Republicans who understand that we must address the serious needs facing the veterans community.

I again extend my request to the Senator from Louisiana to work with me. But pending that, I ask unanimous consent that the Senate proceed to Calendar No. 297, S. 1950, with the Sanders amendment, which is at the desk and is the text of S. 1982, the Comprehensive Veterans Health and Benefits and Military Retirement Pay Restoration Act.

The PRESIDING OFFICER. Is there objection? The Senator from Louisiana.

Mr. VITTER. Madam President, I object on behalf of myself and 43 other Senators.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. If not for any other reason but because of the substantive concerns with the bill.

The PRESIDING OFFICER. Objection is heard.

Mr. SANDERS. Madam President, I hear what my colleague from Louisiana says. I hear that he objects to passing legislation which has the support of virtually every veterans organization in the country that represents many millions of veterans. I hear him objecting to legislation which has the support of 57 Members of the U.S. Senate. I hear him objecting to what I believe is legislation which has the support of the vast majority of the American people, who do believe we should do right by our veterans. It is very easy to send people off to war; it is a lot harder to take care of them when they come home.

I would simply say that I look forward to sitting down with my colleague from Louisiana and other Republican colleagues—and we are doing that right now but specifically with my colleague from Louisiana, Senator VITTER—and seeing where we can agree and how we can create some significant legislation to address the very serious problems facing the veterans community.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, just to briefly repeat, I did object on behalf of myself and 43 other Senators about major provisions in this bill. I am happy to talk about it. I am happy to work on it. I am happy to work with Senator BURR, who is the ranking member on the committee, who has been communicating all these concerns to Senator SANDERS and his staff. But I think that is very different from objecting to a focused community-based clinic bill that has no objection on the merits.

I just think it is a shame not to try to do those things where we have agreement—let's move forward—not to move forward. That would be moving forward in a substantial way. That would quickly improve the lives of veterans in 27 communities and in 18 States, including Lafayette and Lake Charles—communities that certainly Senator LANDRIEU and I very much care about and very much want to have their VA issues addressed in this way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Madam President, I simply reiterate my hope that Senator VITTER would sit down with me, his staff would sit down with my staff, and we can work out our differences. I have always been willing to compromise and make changes in the legislation.

But for the veterans of this country who have suffered so much and who have been hurt so much, we owe them so much, and we have to do right by them.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC SERVICE RECOGNITION WEEK

HONORING HEIDI KING, CHUCK BOLEN, AND BRIAN STOUT

Mr. WARNER. Madam President, this week we celebrate Public Service Recognition Week to honor public servants at all levels of government for their admirable patriotism and contributions to our country.

We often forget that these public servants at all levels of government go to work every day with the sole mission to make this country a better and safer place to live. Day by day, they go about their work, often receiving little recognition for the great work they do.

Since 2010, I have come to the Senate floor on occasions to honor exemplary Federal employees—a tradition that was begun by my friend Senator Ted Kaufman.

Amongst the list of Federal employees we have honored across the country are some who serve here on this Senate floor.

Today I want to celebrate Public Service Recognition Week by taking this opportunity to recognize three federally employed Virginians who are doing exemplary work behind the scenes to make our government more effective and keep our fellow citizens safe.

Normally, we would have their photos here in the Chamber, but since we have three, we are going to recognize them all with this single poster. Again, these are exemplary Federal employees.

The first is Heidi King, who served as the Director of the Patient Safety Program Office at the Department of Defense and currently leads the DOD's Partnership for Patients.

While at DOD, she helped develop a patient safety program which helps medical professionals eliminate preventable medical errors.

Breakdowns in communication between doctors, nurses, and special care providers are historically the cause of many tragic medical events such as surgical errors, prescription mistakes, and hospital-acquired infections.

To combat this, Heidi coordinated with the Department of Health and Human Services to bring together more than 100 independent experts in the medical field. These experts developed a comprehensive training program for medical professionals to learn about the factors within their control that commonly contribute to errors.

In 2008, DOD implemented Heidi's program in combat support units in Iraq. As a result, communication errors decreased 65 percent, medication and transfusion errors decreased 85 percent, and the rate of bloodstream infections from catheters also dropped dramatically. Heidi should be proud of her work, which is directly responsible for the health of many brave soldiers.

In an effort to spread these best practices, the safety program has established 11 training centers across the country, where more than 6,200 medical professionals have participated to become master trainers and instructors. They then return to their health care systems to lead implementation of the program.

This is the kind of commonsense, cost-effective, yet also lifesaving program that does not get much recognition but is an example of a Federal employee going above and beyond the call of duty to help her fellow Americans and actually help the bottom line.

I would also like to recognize two TSA employees for their heroic actions that helped save a passenger's life.

While posted at Washington National Airport last month, TSA employee Chuck Bolen was told that a passenger was in need of immediate assistance.

As soon as Bolen saw the passenger slumped in the chair, he knew he did not have a lot of time and was prepared to do whatever was necessary to keep the passenger alive.

As the man's condition declined rapidly, Bolen sprinted to grab the nearest AED machine. With help from his colleague Brian Stout, a marine infantry sergeant who did three combat tours in Iraq and now works for TSA, they worked together to apply the AED machine. After a single attempt, the machine advised to begin CPR. Bolen initiated chest compressions and continued administering the lifesaving action, even after first responders arrived on the scene.

Thankfully, their quick collaborative actions paid off. While in the ambulance on the way to the hospital, the man's heart started and stopped several times, but today he is alive and recovering from triple bypass surgery.

I hope my colleagues will join me in honoring Heidi King, Chuck Bolen, and Brian Stout—truly great Virginians but also great civil servants—and all those who serve at the Department of Defense and the TSA for their hard work and dedication to our Nation.

While today we have highlighted three, as I mentioned at the outset, over the last 5 years I have come many times and have highlighted folks from across Virginia and across the country. As I mentioned, as well, there are people serving right now on this Senate floor who have received this kind of attention for their quiet dedication to duty and making the Senate a more functioning institution.

As we constantly come to the floor and debate the challenges of our budget and other issues, I think it is very important—while we may differ about which programs we support and what functions our government should take on—we never underestimate the enormous value our Federal employees contribute on a regular basis to the safety, security, and, quite honestly, the function of our national government.

I hope all my colleagues will join me in recognizing the efforts of public servants across the country during Public Service Recognition Week and thank them for the very important work they do every day.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SCHATZ). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. STABENOW. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STUDENT DEBT

Ms. STABENOW. Mr. President, I rise to talk about an issue that impacts tens of millions of people across

the country and hangs over our entire economy, and that is student debt.

Borrowers have accumulated over $1.2 trillion in student debt. Think about that for a minute. That is more than people owe on their credit cards. Talk about a drag for not only the individual, for their family, but for the entire economy.

Students in my home State of Michigan are among the most heavily indebted in the country when they graduate. Frankly, we want them to get degrees, not debt, when they graduate.

Nearly two-thirds of students in Michigan who graduated in 2012 had student loan debt, with each student averaging nearly $29,000. So they walk outside the door—congratulations—take off the cap and gown and get a $29,000 bill.

This growing mountain of debt represents a threat to our economy and to the dreams of millions of Americans.

Today too many people are saddled with decades of debt just because they want a fair shot to go to college and to get ahead in life.

Instead of saving for a house, buying a car or just buying gas or groceries, millions of people are simply paying student loan payments month after month, year after year, decade after decade.

I hear from many of my constituents about how they are being crushed by the burden of student debt. I have seen it in my own extended family. They write about having $50,000 or $100,000 of debt. If you are going to medical school, if you are in specialty areas as a grad student, they have $200,000 or more in debt.

Some of the reforms we have already put in place help some borrowers by limiting the payments on their Federal loans relative to their incomes. That is a good thing, but this is not enough, and it doesn't do anything to help people who have private loans—oftentimes on top of the loans through the Federal Government. Some of these private loans carry interest rates like credit cards and are literally driving people into bankruptcy.

I have constituents who use words such as ''crippling'' or ''catastrophic.'' They talk about anxiety attacks.

One person wrote that because of the high interest rates on his private loans, ''it is getting to the point where [he] cannot eat because of [his] student loan payments.''

Another constituent, Thomas, wrote to me that each of his three children has a combination of Federal and private loans totaling $75,000 to $110,000—each.

What Thomas wrote to me really sums up the student debt crisis we are facing and that families across the country are facing:

> Loans are designed to give students a chance to go to college and to obtain high-income jobs. Somehow the interest they pay has become just another wound for college grads that have a tough time finding jobs. . . . It will leave grads with a high risk of default, not being able to pay for their dreams and not being able to fund their retirement accounts for many years.

That is crazy. That is just not right, and that is not how it should work in our country. That is certainly not what we think of when we think of striving for the American dream. Whether it is the Federal Government or the big banks, we should not be making a profit off the backs of students, and that is exactly what is happening.

That is why I am so proud to be fighting alongside Senator WARREN and my other colleagues to address this very urgent and growing problem.

Senator WARREN and I fought last year to stop students from getting stuck with a raw deal. Now we are back at it again this year, and we are going to keep fighting until we can solve this problem.

Horace Mann once called education ''the great equalizer'' in our society. Everyone who wants to work hard and go to college in order to simply have a fair shot in life should not be denied that opportunity.

It shouldn't be the great equalizer on debt. It has to be the great equalizer on opportunity.

These folks are willing to play by the rules, work hard, and pay back their loans on time. We have to make sure that the system isn't rigged against them.

The legislation we have introduced will not only help millions of Americans, it will also boost our economy by allowing borrowers to spend their money on a home, a car or just the needs of their families instead of interest payments. Nobody should have to put off getting married or starting a family just because of student loans.

We are not just talking only about young people, this bill helps students of all ages: students in their twenties, thirties, and beyond—young professionals and parents who have stepped up to help their children. In fact, the student loan debt has gotten so out of hand that senior citizens in the country owe tens of billions of dollars on student loans.

Our bill will help millions of responsible borrowers of all ages in every State across the country. The Bank On Students Emergency Loan Refinancing Act is a reasonable commonsense and fiscally responsible way to address the student loan crisis.

This is simply about giving those who want to go to college a fair shot to get ahead, making sure that those who already borrowed to get an education are not being unfairly weighed down by debt just so the government or the big banks can turn a profit.

I thank Senator WARREN for her leadership on this vital issue. This is about allowing all of those who currently have student loan debt to be able to refinance—to be able to refinance at a rate actually that was voted on, 3.68 percent, by colleagues on both sides 1 year ago. It is not a number that is picked out of the a hat. It will allow people to exchange an 11 percent or 12 percent on a private loan or a 6 percent, 7 percent or 8 percent interest rate on a public loan for something that is affordable, that will allow them to take those extra precious dollars, invest in their future, and the country's future.

That is what this is about. It is very simple, and it is paid for by what has been commonly called the Buffett rule, which basically says those who have benefited by the blessings of this country and those who are the wealthiest among us would contribute a little bit more to make sure that everybody has a fair shot at getting ahead.

We can't afford for America to be a big-shot economy. We have to make sure that everyone has a fair shot to make it. Nobody is asking for a handout; they are asking to work hard. They are asking to know that the system is not rigged against them.

They are asking to know that they are going to be able to go to college, get out of college, pay back their student loans at a reasonable, fair rate, buy a house, get married, have a career, have children, and go on to have the American dream. That is what this is about. This needs to get passed as quickly as possible so people know they are going to have the opportunity to get ahead in America.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, more than a year ago Senators SHAHEEN and PORTMAN worked on an energy efficiency bill—a good bill. That was more than a year ago. That bill was, as I have indicated, good, but during the past many months, through the energy committee and the work of RON WYDEN and others, that bill was improved greatly. RON WYDEN was chairman of that committee at the time, and they did so many good things with that piece of legislation. We had six cosponsors—three Democrats and three Republicans.

This bill would create 200,000 jobs, and it would help our Nation's energy proficiency significantly.

So I moved to proceed to the bill in September, this past September—and we have been through this a number of times, but I will repeat it very quickly. We were held up from doing that for a number of reasons, not the least of which was the junior Senator from Louisiana wanting to take away the health care for our staffs. That threw a few roadblocks in the way. So without going into detail, we never got that done.

But Senators SHAHEEN and PORTMAN, as I have indicated, did not give up. They worked hard to incorporate 10

separate bipartisan amendments into this bill. So the bill was good last September, but it is terrific now.

As a result of that, we improved the number of people who were willing to support this legislation. We went from 3 and 3 to 7 and 7—14 cosponsors of this bill. On the Republican side are Senators PORTMAN, AYOTTE, COLLINS, HOEVEN, ISAKSON, MURKOWSKI, and WICKER. On the Democratic side are Senators SHAHEEN, BENNET, COONS, FRANKEN, LANDRIEU, MANCHIN, and WARREN. There is a good mix of Senators on both sides. So we worked very hard to finalize a more bipartisan bill. I worked with them. I didn't give up. We continued to try to move forward. We did that, as we did with childcare recently. It was in March, actually. I have looked for every bipartisan bill we could come to the floor on. We did it with the childcare bill, as I said, and we should do it on this bill. That was my anticipation. And we were able to do it, I thought.

So this Shaheen-Portman bill is a very fine bill. I reached out to Republican Senators. To be honest, I didn't reach out to them; they reached out to me. They wanted to work to get this passed. Originally, the arrangement was, let's just pass this bill as it is.

Right before the Easter recess, I was asked: How about a sense-of-the-Senate resolution on Keystone?

I said: I don't want to do that. We already have an agreement.

Anyway, we relented and said OK. So I came back after the Easter recess, and that agreement we had, well, they said: Let's change it. We no longer want a sense-of-the-Senate resolution; we want a vote on a freestanding piece of legislation.

I said: We have an agreement.

Anyway, I relented and we had that proposal. So we had that all worked out. Then we were told there needs to be five more amendments.

So, as I have said before, this has been very hard to do, this shell game. It can be described in other ways, but it has been very difficult to pin down the Republicans for anything more than a day or two because they keep changing their minds.

So here we are, and my offer is this: If Shaheen-Portman passes, with the seven Republican cosponsors, we will have a freestanding vote forthwith on Keystone, with whatever time is fair. I have put 3 hours in the proposal I will make in just a minute, but it doesn't matter—whatever time they want for a freestanding vote on Keystone, which they have been wanting to have for a long time.

You get the picture, Mr. President. That is what I think should happen. It is a good bill, but it is so much better than it was a year ago. It is a great bill now, not a good bill.

So, Mr. President, I ask unanimous consent that at a time to be determined by me after consulting with Senator MCCONNELL, the Senate proceed to the consideration of Calendar No. 368, S. 2262; that there be no amendments, points of order, or motions in order to the bill other than budget points of order and applicable motions to waive; that there be up to 3 hours of debate on the bill equally divided between the two leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on passage of the bill; that the bill be subject to a 60 affirmative-vote threshold; that if the bill is passed, the Senate proceed to Calendar No. 371, S. 2280, at a time to be determined by me after consultation with the Republican leader but no later than Thursday, May 22, 2014—and I will just enter the comment here that if they want it earlier, they can have it, but that is the date I have suggested—that there be no amendments, points of order or motions in order to the bill other than budget points of order and the applicable motions to waive; that there be up to, again, 3 hours of debate on the bill equally divided between the two leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on passage of the bill; that the bill be subject to a 60 affirmative-vote threshold.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object, it has been my position since late last week that it would be appropriate for the minority—not having had but eight rollcall votes since July—to have five amendments of our choosing on this bill, and therefore I am going to propose a counter consent request at this time.

I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 368, S. 2262; that the only amendments in order be five amendments to be offered by myself or my designee related to energy policy, with the first amendment being my amendment No. 2982 on saving coal jobs, and with a 60-vote threshold on adoption of each amendment; that following the disposition of these amendments, the bill be read a third time and the Senate proceed to a vote on passage of the bill, as amended, if amended.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, I incorporate by reference the statement I made earlier today on this bill and reluctantly object.

The PRESIDING OFFICER. Objection is heard to the request of the Republican leader.

Is there objection to the original request?

Mr. MCCONNELL. I object.

The PRESIDING OFFICER. Objection is heard.

The Republican leader.

Mr. MCCONNELL. Mr. President, earlier this morning I noted that the majority leader has refused for 7 years to allow a serious debate on energy in this Chamber. I said he has tried to stifle the voice of the American people again this current week as well, at a time when so many middle-class Americans are suffering from high energy costs, lost jobs, and stagnant wages in the Obama economy; at a time when global crises clarify not just the need but the opportunity for America to establish a greater energy presence overseas that would grow more jobs here at home; at a time when eastern Kentuckians are suffering a depression, made so much worse by this administration's elitist war on coal.

Well, Republicans are going to keep fighting. Even if Senate Democrats would rather pander to the far left and shut down debate, Republicans are going to keep fighting for the middle class. That is why we had hoped to offer forward-leaning amendments today which aim not just to increase energy security but also to improve national security and economic security for our middle class.

One amendment I had hoped to be able to offer would approve construction of the Keystone Pipeline, which everyone knows will create thousands of jobs right away.

One amendment would expedite the export of American energy to our global allies, which would create more of the jobs we need right here in the United States.

One amendment would have prevented the administration from moving forward with its plans to impose a national carbon tax through the back door, even though Congress already rejected the idea several years ago and even though we know it would devastate an already suffering middle class.

There is another amendment too, one I had planned to offer personally, along with the junior Senator from Louisiana and the senior Senator from North Dakota. It would halt the administration from moving forward with new regulations on coal-fired powerplants until the technology required to comply with the regulations is commercially viable, which it currently is not.

The Obama administration's extreme regulations would hammer existing coal facilities too, taking the ax to even more American coal jobs in the midst of an awful economy. These coal regulations are especially unfair to the people of my State. We know they would hit Kentuckians who are already suffering—constituents of mine who just want to put food on the table and feed their families. Congress needs to do something to help. That is why I would have offered that amendment today.

I remind my colleagues that the amendment we had hoped to offer is almost identical to legislation offered by the Democratic senior Senator from West Virginia that already passed the House of Representatives on a bipartisan basis. So there is no excuse not to pass it here. We hope the Senator from West Virginia and his Democratic colleagues will stand with us to do just that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I will be very brief.

My friend talks about the left-leaning Senators. Three of the Democratic Senators who sponsored this legislation could be called anything but leaning left: LANDRIEU, MANCHIN, and WARNER. That brings a smile to anyone's face.

It is a fiction that we haven't had votes to debate energy policy. We have had trouble having bills because of the obstruction of the Republicans. But we voted on the Keystone matter before we did the budget debate where we had over 100 votes. That was last year. So we debated Keystone last year, we had a vote on it, and we are willing to have another vote on it.

It is my understanding we are now going to enter into debate on whatever people want to talk about for the next hour, and I understand we are going to have a series of votes at 3:45 p.m.

I ask unanimous consent that all remaining time postcloture on the motion to proceed be yielded back.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the motion to proceed.

The motion was agreed to.

## ENERGY SAVINGS AND INDUSTRIAL COMPETITIVENESS ACT OF 2014

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 2262) to promote energy savings in residential buildings and industry, and for other purposes.

AMENDMENT NO. 3012

Mr. REID. Mr. President, on behalf of Senators SHAHEEN and PORTMAN, I call up substitute amendment No. 3012.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. SHAHEEN and Mr. PORTMAN, proposes an amendment numbered 3012 to S. 2262.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. REID. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3023 TO AMENDMENT NO. 3012

Mr. REID. Mr. President, I have a first-degree amendment at the desk I ask to be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3023 to amendment No. 3012.

The amendment is as follows:

At the end, add the following:

This Act shall become effective 1 day after enactment.

Mr. REID. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3024 TO AMENDMENT NO. 3023

Mr. REID. Mr. President, I have a second-degree amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3024 to amendment No. 3023.

The amendment is as follows:

In the amendment, strike ''1 day'' and insert ''2 days''.

AMENDMENT NO. 3025

Mr. REID. Mr. President, I have a first-degree amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3025 to S. 2262.

The amendment is as follows:

At the end, add the following:

This Act shall become effective 3 days after enactment.

Mr. REID. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3026 TO AMENDMENT NO. 3025

Mr. REID. Mr. President, I have a second-degree amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3026 to amendment No. 3025.

The amendment is as follows:

In the amendment, strike ''3 days'' and insert ''4 days''.

MOTION TO COMMIT WITH AMENDMENT NO. 3027

Mr. REID. Mr. President, I have a motion to commit S. 2262, with instructions, which is at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] moves to commit the bill (S. 2262) to the Committee on Energy and Natural Resources with instructions to report back forthwith with an amendment numbered 3027.

Mr. REID. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The amendment is as follows:

At the end, add the following:

This Act shall become effective 5 days after enactment.

AMENDMENT NO. 3028 TO AMENDMENT NO. 3027

Mr. REID. Mr. President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3028 to the instructions of the motion to commit.

The amendment is as follows:

In the amendment, strike ''5 days'' and insert ''6 days''.

Mr. REID. I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3029 TO AMENDMENT NO. 3028

Mr. REID. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3029 to amendment No. 3028.

The amendment is as follows:

In the amendment, strike ''6 days'' and insert ''7 days''.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2262, a bill to promote energy savings in residential buildings and industry, and for other purposes.

Harry Reid, Jeanne Shaheen, Edward J. Markey, Christopher A. Coons, Tammy Baldwin, Patty Murray, Richard J. Durbin, Barbara Boxer, Maria Cantwell, Ron Wyden, Robert Menendez, Jon Tester, Debbie Stabenow, Bill Nelson, Thomas R. Carper, Patrick J. Leahy, Mark R. Warner.

Mr. REID. I ask unanimous consent that the mandatory quorum required under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## EXPIRE ACT OF 2014—Motion To Proceed

Mr. REID. Mr. President, I now move to proceed to Calendar No. 366, S. 2260.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

Motion to proceed to the consideration of Calendar No. 366, S. 2260, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Mr. REID. Mr. President, I ask unanimous consent that the time until 3:45

p.m. be equally divided and controlled between the two leaders or their designees; that at 3:45 p.m. it be in order for the Republican leader or his designee to offer up to two motions to table either the motion to commit S. 2262 or an amendment pending with respect to that bill; that if more than one motion to table is made, there be 2 minutes equally divided between the votes.

Mr. President, before you rule, I am agreeing to this, but I don't want this to set any precedent of any kind, because I personally believe these are out of order. But for purposes of moving through this afternoon, I ask this consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, on the floor is Senator SHAHEEN from New Hampshire. I have never had a Senator better prepared than she on any issue that we bring up, who is more concerned about her State, and has worked harder on an issue than she has worked on the issue now before this body.

It is a shame that it appears my Republican counterpart has peeled off a couple of the cosponsors of this legislation, Republicans who aren't going to vote to finish this bill. What a shame. It happens every time we get to an issue which we are trying to move forward. It is the obstruction we have faced for going on 6 years. It is too bad. But I commend Senator SHAHEEN for her diligence. And I hope, prior to the final curtain call on Monday, we can work the next few days to try to come up with some way forward.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I thank the majority leader for his very kind words on my efforts, along with Senator PORTMAN's, on this legislation. I certainly share the hope that we can come to some agreement on amendments that will allow us to move forward on the bill.

Can the Presiding Officer tell me the status of the procedure right now?

The PRESIDING OFFICER. We are in divided time until 3:45.

Mrs. SHAHEEN. So I will have about 10 minutes for remarks. Is that correct?

The PRESIDING OFFICER. The majority has 24 minutes.

SHAHEEN-PORTMAN

Mrs. SHAHEEN. Mr. President, I came to the floor this afternoon to again talk about the importance of this bipartisan Energy Savings and Industrial Competitiveness Act, also known as Shaheen-Portman.

This legislation makes sense for all kinds of reasons, but I want to start with the fact that energy efficiency is the cheapest, fastest way to address this country's energy needs. The cheapest energy is energy we never have to create. So if we can reduce our energy consumption, we can save money.

Not only will this legislation create jobs, reduce pollution, and make our country more energy secure, but it will also save taxpayers billions of dollars a year through energy efficiency.

I would point to a study by the American Council for an Energy-Efficient Economy which shows in greater detail what this poster points out: This bill is going to create jobs, reduce pollution, and save taxpayers billions of dollars.

The legislation has been endorsed by over 260 businesses, organizations, environmental groups, and labor unions. It has a broad coalition of support. The legislation before us includes not just this bill as Senator PORTMAN and I originally introduced it, but it includes 10 bipartisan amendments which provide even more jobs, even more savings, and even more reduction in pollution.

According to the study by experts at the American Council for an Energy-Efficient Economy, by 2030 our legislation has the potential to create 192,000 jobs here in America—192,000 domestic jobs—to save consumers and businesses $16 billion a year, and to reduce carbon pollution by the equivalent of taking 22 million cars off the road.

We have a poster which lays this out very directly so people can see the difference this legislation would make: By 2030, 192,000 new jobs, save consumers $16.2 billion a year, and decrease carbon pollution by the equivalent of taking 22 million cars off the road. So those are the benefits just by embracing energy efficiency. The legislation does this without any mandates, without increasing the deficit. In fact, all of the authorizations in this bill are offset and we even see a $12 million deficit reduction, according to the Congressional Budget Office. We are going to be able to do all of this without a major government program, without increased government spending, without any mandates. The reason we are going to be able to do it is because there are opportunities that exist across all sectors of our economy to conserve energy and create good-paying, private sector jobs.

Shaheen-Portman addresses a number of opportunities to do this by reducing barriers to efficiency in the major energy-consuming sectors of the national economy. First is in the building sector. Buildings in this country consume almost 40 percent of all of our energy use. It also addresses the industrial sector that consumes more energy than any other sector in our domestic economy, and then it addresses the Federal Government.

The Federal Government is the biggest user of energy in our country. About 93 percent of that energy is used by the military. This legislation puts in place commonsense policies that deploy more efficient technologies and techniques. It has been endorsed by hundreds and hundreds of business coalitions, by environmental and efficiency groups, by labor unions, and we have seen a number of letters of support just in the last couple of weeks for this legislation. I introduced those into the RECORD yesterday.

One of the reasons we get the number of jobs, the amount of savings and benefits from pollution is because since we first introduced the bill last year we have added 10 bipartisan amendments that make this bill even better. Senator PORTMAN and I have worked closely and continually with Senators from both sides of the aisle as well as stakeholders and industry advocates who want to improve the bill, and we have incorporated their bipartisan, substantive amendments into the text. Those amendments expand sections of the bill that address energy efficiency barriers in buildings, the manufacturing sector, the Federal Government, and also puts in place regulatory relief provisions to maintain the underlying principle of advancing efficiency in the private sector.

The bill enjoys even more support from groups such as the Edison Electric Institute, the Business Roundtable, the American Gas Association, the National Rural Electric Cooperative Association, the U.S. Chamber of Commerce, the National Association of Manufacturers, the Painters and Allied Trades, and the Natural Resources Defense Council. It is unusual to have energy legislation that enjoys such a broad coalition of support from across many sectors.

As we heard just now on the floor, there is a difference of opinion about how to move forward on both sides of the aisle. I am hopeful we can come to an agreement, that we can agree there are amendments both sides would like to see added to the bill, so that even though we have 10 more amendments in this legislation than when we first introduced it, there could still be an opportunity, I hope, for some additional amendments to be added. That is what we are working on. I know everybody is acting in good faith to try to get that done. So I hope we can maintain the bipartisan spirit of this bill as Senator PORTMAN and the Senate leadership and I work to see how we can come to an agreement that moves this legislation forward.

I know there are others who would like to speak, and I hope to have an opportunity throughout the afternoon to add some more reasons why I think we should support this legislation.

I ask unanimous consent that the remaining time during the quorum call be divided equally between both sides.

The PRESIDING OFFICER (Mr. COONS). Without objection, it is so ordered.

Mrs. SHAHEEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BEGICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEGICH. Mr. President, I come to speak in support of the Shaheen-Portman bill, otherwise known as the Energy Savings and Industrial Competitiveness Act. As I like to put it, it

saves money and saves energy. Keep it simple.

It comes at an important time, and it is no surprise that as someone from Alaska, I care about oil and gas issues, energy issues, energy efficiency. This is a bill that is important to talk about but also hopefully to pass and move to the House to take up.

Conservation makes sense. It saves money and makes people more comfortable in their homes and workplaces and also is good for the economy and environment. It is particularly important to Alaska.

Alaska's per capita energy costs are the highest in the Nation. We have long and cold winters, limited infrastructure in rural parts of the State, and we spend more on energy than anywhere else. So we have the most to gain from energy efficiency improvements. In Alaska, energy costs affect every aspect of life. Energy costs are driving people away from the traditional homes in rural Alaska. It is getting too expensive to heat even the smallest of homes. The cost of fuel to run your boat or snow machine for subsistence hunting and fishing is sky-high. In Fairbanks, AK, filling your fuel tank to heat your home could easily cost you $1,900, and that may only last half of the winter. Electric heat isn't much better. Right now in Fairbanks electricity costs 19 cents per kilowatt, which is not a good alternative to heat your home. Bundling all the costs of energy together puts a lot of pressure on the pocketbook.

That is why I fought to get a permit to restart the Healy coal plant and make sure the existing coal plant at the University of Alaska, Fairbanks, is exempt from EPA regulations. We need to stabilize energy costs while making investments in energy efficiency; otherwise, communities such as Fairbanks will become unaffordable to live in.

For schools in Alaska, 75 percent of the energy costs goes into space heating. Money that is spent on heating and electricity is money they cannot spend in the classroom, making sure we have the best education for our young people. As an example, the State of Alaska alone spends $62 million a year on energy, one-tenth of the State's operating budget.

Our State provides energy to the rest of the Nation. Yet our residents can't afford to live where they want to live or in many cases where their families have lived for generations. Energy efficiency can have an immediate and profound effect on the lives of people in these communities.

The Shaheen-Portman bill is deficit neutral. It is estimated that by 2030 it will save consumers $60 billion and create nearly 160,000 jobs, a good sign after this month's jobs report of almost 280,000 jobs added to the private sector and to our economy.

I filed an amendment to provide a $5,000 tax credit toward the purchase of energy-efficient home heating and cooling appliances for families living in very high energy consumption States; for example, converting a home from expensive heating fuel to cleaner, more efficient natural gas or clean-burning woodstoves, even replacing appliances with newer and more energy-efficient models to cut back on electric use and lower energy bills. For example, an ENERGY STAR certified refrigerator uses 20 percent less energy than the current standard and 40 percent less energy than the standard in 2001.

As many of my colleagues have expressed, it is disappointing that this Senate takes so long to deal with a fairly modest bill. Let's be honest. While it is all good policy, this is very modest legislation. Congress has not passed major energy legislation since 2007, and the energy landscape has radically changed. The costs of renewable energy have decreased drastically as solar, wind, hydro, geothermal, and biomass resources have grown all across this country. A rational energy policy for our Nation includes both renewable and nonrenewable energy resources.

Directional drilling, hydraulic fracturing has changed the traditional energy production landscape too. Production is way up. After Saudi Arabia and Russia, the United States is traditionally the third largest producer of crude. The final numbers are not in yet for 2013, but it looks as though we are about to be No. 1 or very close to it. Yet we still rely too much on foreign oil.

The United States consumes about 19 billion barrels of oil per day. All told, about 13 million barrels per day of our demand is supplied by U.S. products—crude, natural gas liquids, and ethanol. It still leaves another 5 to 6 million barrels per day from other countries, many of whom don't like us very much, and that is where Alaska comes in.

We can play a significant role by providing U.S. production and creating some good jobs too. The potential is huge. The Trans-Alaska Pipeline delivers 550,000 barrels a day, just over 10 percent of the domestic oil production. That is down from a peak of 2 million barrels a day 25 years ago, but there is a lot more oil and gas to go after.

Producers of oil and gas create incredibly high-paying jobs. The average sector wage in Alaska is $117,000, and we can produce more jobs.

After 20 years of stagnant growth, we started development in the Arctic again with the Chukchi and Beaufort exploration wells in 2012. We are making strides to return in the summer of 2015. Alaska can ensure our energy security and economic prosperity through development of our domestic resources, thereby reducing our reliance on foreign oil.

Our picture very clearly shows the volume of capacity in Alaska and where we fit in in the world, and this is just what we know about. If we add Cook Inlet to it—let me give you the sense of the potential in the Arctic. Chukchi has 15.4 billion barrels of oil and 77 trillion cubic feet of gas. Beaufort has 8.2 billion barrels of oil and 28 trillion cubic feet of gas. NPR–A has 1 billion barrels of oil.

The issue of the NPR–A, which is the National Petroleum Reserve—this area has only had slight exploration over the years, and now we are starting to develop in that area. We have now moved forward on the first well.

I was very pleased that one of my first acts, working with the administration, was getting the administration to see the light of day and solving the problem with the first issue of the CD–5. Production at the first well—one well, one development—is at 17,000 barrels a day. The second one is right next door, which is called GMT–1, and will produce another 30,000 or 40,000 barrels of oil a day. And, of course, there is ANWR, which we estimate has around 10-plus billion barrels of oil. Again, Alaska is a storehouse of energy, not only oil and gas, but many others.

The point I want to make is that the oil and gas industry—the study that was done in Alaska—can produce 54,000 jobs and has over 50 years worth of production in the Arctic. If you look at it from local and State and government revenues over the 50 years, it is well over $100 billion, plus another $150 billion in payroll.

Another issue, which is important to Alaska, and also to this country is the liquefied natural gas export. A project can produce many jobs and create huge economic opportunity throughout this country. We estimate a project that will move gas off the North Slope, which will then be distributed around the world, will be worth about $65 billion in development. There will be an 800-mile pipeline, liquefication plant, and marine terminal. It will be the largest and most expensive energy project in North America. It will create up to 15,000 design and construction jobs, and up to 1,000 jobs during operation. LNG will have an export capacity of 2.5 billion cubic feet a day of natural gas sales to overseas buyers which can total more than $12 billion a year.

The steel pipe to construct that 800-mile pipeline, which is 42 inches in diameter—almost an inch thick—is so big that it will take a single pipe mill 2 years to produce that. This will only add to the important role the oil and gas industry plays in the national economy.

Nine percent of all the jobs in 2011 came from the oil and gas sector and 37,000 direct jobs were created nationwide. As I said earlier, they are good-paying jobs.

I have two or three more points to make before I close. As I talk about oil and gas, it is not only important for Alaska's economy, it is also an important part of the whole energy system in this country. We have a huge amount of it. We are happy the Arctic is moving forward. Again, this project was stalled for many years, but it is now moving in the right direction.

The same was true for the NPR–A. It was stalled out for many years, but now it is moving in the right direction.

Alaska is unique in many ways. This bill talks about energy conservation and what we can do to preserve the capacity of our energy use. By 2025, Alaska will be at 50 percent renewable energy internal consumption. We embrace conservation everywhere we can.

I can tell you from my own experience that not only is my home energy-efficient, but the commercial buildings that I operate are also energy-efficient. We have new boiler systems that are 98 percent more efficient. As a result, we are saving the tenants lots of money every year. We installed new energy-efficient windows, and other elements, which have made those buildings more efficient, thereby saving them money and allowing us to put more money back into the complexes.

Even though this is not a comprehensive bill, it is a piece of legislation that gets us to do some energy policy in this country down the road.

The Presiding Officer lives on the east coast, and I live in Alaska, so we are far apart by thousands of miles, but we still have the same issues. Consumers want more efficient facilities and more efficient buildings to lower their costs so they can save money and more energy so they can create new development—new economic development. That is what this bill does in many ways.

By creating conservation and creating more energy-efficient legislation, such as this, we are creating jobs just by this act. I think it is important that we look at this bill from a broad perspective and do what we can to make ourselves more dependent on our own energy sources, be they oil and gas or energy-efficient renewable energy or energy-efficient projects. The more we are dependent on our own resources and less dependent on foreign oil, the better off we will be from a national security perspective and from an economic perspective.

I will leave with one statistic. Because of all the work to become more dependent on our own energy resources and more energy efficient, we are sending $100 billion less overseas to foreign countries for petro oil over this last year.

I appreciate having a moment to talk on the floor. I am not only interested in talking about Alaska's oil and gas, but also how we can improve energy efficiency, conservation, and renewable energy. There is nothing that pits one against the other. It is all about the projects and working together.

I thank the Presiding Officer and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, we are here today to discuss the energy efficiency bill and what may or may not be the status on any given amendments. I want to take a few minutes this afternoon to speak about the issue of liquefied natural gas exports.

Senator BARRASSO has proposed a bill that would provide for fast-track status for DOE licensing to LNG projects to export to members of WTO countries.

As we focus on our opportunities that we have when it comes to our natural gas, our LNG, and the opportunities for Federal support for energy projects overseas, I think it is important to recognize there is a little inconsistency going on with this administration slow-walking infrastructure and hydrocarbon development in this country. I will give a couple of examples. The Export-Import Bank has supported a slew of LNG-related transactions over the past couple of decades. These are structured and project-financed transactions, these are loan guarantees, and some are even direct loans. With the assistance of the Ex-Im Bank and my committee staff, the Congressional Research Service has compiled a report on this subject which I would like to reference at this time.

I emphasize that this is a list for LNG-related projects only. * * * if not exhaustive of the other kinds of energy-related infrastructure that the Federal Government finances overseas.

So what we have here are projects that are LNG-related transactions that have been moved through the Export-Import Bank.

Over $350 million in loan guarantees for equipment and services went to Trinidad and Tobago in 1996. In 1997, we saw over $775 million in loan guarantees go to Qatar and Oman for engineering and management services, for cryogenic heat exchanges, for compressors, and for gas turbine drives. In 2000 there was a loan guarantee of over $70 million that went to Malaysia. In 2002 there was a $135 million loan guarantee for equipment and services for Nigeria. Then between 2005 and 2006 we had over $800 million in loan guarantees for liquefaction and facilities-related engineering services to Qatar. In 2008 there was a $400 million direct loan for equipment and services to Peru; then in 2010 $3 billion in direct loan and loan guarantees for equipment and services to Papua New Guinea.

In 2012 there was nearly $3 billion in direct loans for engineering services to Australia. There was a large project that included the liquefaction plant, a shipping terminal, and transmission lines. Then just last year there was another $1.8 billion in direct loans to Australia for facilities construction.

There have been over a dozen projects, eight countries, and $10 billion in financing.

I think it is important to recognize that the Export-Import Bank is one of the few agencies in the Federal Government that actually turns a profit, and my objective in listing these projects is not to oppose the financing—that is not what we are talking about—but, rather, to point out the inconsistency that we have in some policies. Simply put, we are financing LNG export projects overseas because they are a good idea. We like that approach. But we are politicizing the project for their review here at home.

If LNG projects can create wealth and can support jobs in Australia and in Qatar, they can and will do the same here in the United States of America.

But this administration is stalling on other infrastructure and development initiatives, not just LNG export facilities. We have the Keystone XL Pipeline. It is a great example. Offshore development is yet another example.

Another Federal agency, the Overseas Private Investment Corporation, has supported oil and gas projects in other countries.

I also reference for my colleagues this afternoon another CRS report that was commissioned by my committee staff. So OPIC—this is not OPEC but OPIC—has provided insurance and financing to companies operating in Indonesia, Guatemala, Egypt, and Botswana. The bigger list includes, back in 2002, $25 million of insurance for a liquefied petroleum gas storage facility in Guatemala. In 2005, we had a $2.5 million insurance for a natural gas pipeline in Benin; $2.5 million in insurance for a gas pipeline in Togo; $45 million in insurance for another pipeline in Ghana; $320 million in insurance for an offshore natural gas pipeline in Israel.

Again, I am not saying that financing this is a wrong idea or a bad idea; I am asking the simple question: If this is good enough for helping other countries, why are we not doing it here at home?

There is a third Federal agency I wish to briefly mention that has supported energy-related projects overseas. This is the Trade and Development Agency. It funds feasibility studies, pilot projects, technical assistance, reverse trade missions, and various training activities. I reference for my colleagues a third CRS report, again commissioned by my committee staff, that showcases some of these activities.

Specifically, on LNG, the Trade and Development Agency funded feasibility studies for: LNG import and power generation in Thailand back in 2004, CNG/LNG distribution in Indonesia in 2005, import terminals in Lithuania and Romania in 2008, floating LNG storage and regasification in Ghana in 2011, and reverse trade missions to Turkey in 2005 and South Africa in 2008 on LNG-related issues.

The Trade and Development Agency has also funded energy-related technical related assistance to Brazil, Colombia, Peru, India, Sri Lanka, Jordan, Morocco, Afghanistan, Azerbaijan, and Nigeria. They have funded reverse trade missions with Cambodia, Vietnam, Iraq, Kazakhstan, Turkmenistan, Georgia, and Hungary.

Again, helping other countries to develop their energy resources while helping American companies find opportunities to generate jobs here in the United States is a worthwhile policy as well. It is a worthwhile policy abroad and a worthwhile policy at home.

I know my colleague from South Dakota wants to say a few words this afternoon.

I yield the floor, and I thank my colleagues for their attention.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, in a moment I intend to propound a unanimous consent request that it be in order for me to offer my amendment No. 3002 to S. 2262, but I will speak for just a moment if I might about it.

I think it is unfortunate that we are here in the Senate with Senate Democrats continuing to block Republican amendments that would approve the Keystone XL Pipeline, stop the administration's war on affordable energy, and expand liquid natural gas exports to our allies overseas.

My amendment No. 3002 is on the list of commonsense amendments that should be voted on as part of the Shaheen-Portman energy efficiency bill.

As with almost all of the President's energy policies, the EPA's anticipated ground level ozone regulations would do serious damage to our economy and to working Americans. In fact, this regulation is expected to be the most expensive in the EPA's history.

In 2010 the EPA proposed lowering the permitted ground level ozone levels from 75 parts per billion to 60 to 70 parts per billion. The energy industry estimate suggests that lowering the ground level ozone concentration to 60 parts per billion would cost businesses more than $1 trillion a year between 2020 and 2030—$1 trillion a year. Job losses as a result of this measure would total a staggering $7.3 million by the year 2020, devastating entire industries, especially U.S. manufacturing industries.

Even by the EPA's own estimates—this is the EPA's own estimate—this regulation could cost up to $90 billion per year—far outpacing the cost of any EPA regulations we have ever seen before. My own State of South Dakota would lose tens of thousands of jobs in manufacturing, natural resources, mining, and construction. In fact, the cost of this regulation is so great that when the EPA first proposed lower levels in 2010, the White House delayed the regulation until after the President's reelection.

My amendment No. 3002 would stop the administration's upcoming proposal on ground level ozone which is anticipated to be proposed and put out by December of this year. It is a very straightforward amendment. First, it would require the EPA to consider the cost and feasibility of new ozone regulations. It might surprise many Americans to know that the EPA isn't even allowed to consider costs when setting these new regulations. My amendment would fix that.

Additionally, my amendment would force the EPA to focus on the worst areas for smog before dramatically expanding this regulation to the rest of the country. There are 221 counties across 27 States in this country that don't meet the current standard of 75 parts per billion. This chart shows the areas of the country and, as we can see, they are heavily populated, more urban areas of the country.

It makes sense to me that we ought to focus on these urban areas before expanding ozone regulations to areas such as western South Dakota where we clearly don't have a smog problem. Under my amendment, 85 percent of these counties would have to achieve full compliance with the existing standard before the EPA could move forward with a lower level that dramatically expands the reach of ozone regulations.

So this is what it looks like today. These are the 200 some counties that are not in compliance, and my amendment would require 85 percent of those to be in compliance before we could expand the map to where it would look like this, referring to my chart. This is what the proposal would do. Now, look at how much of the United States is covered by that expanded map. The provision in the Clean Air Act was enacted in the 1970s to address smog in downtown L.A., not background ozone levels in western South Dakota.

We should continue to focus on the worst areas for ground level ozone before dramatically expanding those regulations to rural areas of the country.

I hope the majority will stop blocking votes on this and other job-creating amendments that are offered by Republican Members. Senator REID has blocked all but nine rollcall votes on Republican amendments since last July. That is one a month. One Republican amendment, on average, a month has been voted on here in the Senate over the last nine months. By contrast, the House Democrats—the minority in the House—have gotten votes on 125 amendments over the same period—12 times the number of amendments that have been allowed Republicans here in the Senate.

A number of my colleagues have been to the floor, and we heard from the Senator from Alaska, Ms. MURKOWSKI. Senator BARRASSO has an LNG export amendment that I think is very relevant to this debate and very important to this country to both our energy security and national security interests. I am going to continue to ask that the majority provide a chance for Republicans to participate in this debate by allowing a vote on my amendment and the many others that are pertinent to the economy of this country, to creating jobs in this country, to providing energy independence for this country, to providing energy security for this country, and to making sure we don't get crazy regulations that subject areas of western South Dakota to smog regulations that were designed for downtown L.A. That is a fairly straightforward, simple, commonsense suggestion, and it is what my amendment would accomplish.

UNANIMOUS CONSENT REQUEST—S. 2262

So I see we have a Democratic Senator on the floor who would, I expect, object to this request.

I ask unanimous consent that it be in order for me to offer my amendment No. 3002 to S. 2262.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THUNE. Thank you, Mr. President. I regret that. I think it is unfortunate. I know there are many others of my colleagues on this side who have amendments they would like to have votes on and to have an opportunity to debate. It is the first time we have debated an energy bill since 2007. It is of fundamental importance to this country on so many levels.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. There is 1½ minutes remaining.

Mr. BARRASSO. Mr. President, this week members of both parties have offered a number of energy-related amendments to the pending bill. The minority leader has even said he is willing to limit the number of amendments to five—five energy-related amendments—and the majority leader continues to say no.

I am not sure what the majority leader is afraid of in terms of allowing people to vote. People come to the Senate and they are expected to speak up and tell people their positions on various issues.

One of the amendments I had hoped to offer today expedites liquefied natural gas exports. The magazine The Economist recently published an article with the headline: ''The petro-state of America: The energy boom is good for America and the world. It would be nice if Barack Obama helped a bit.''

The article explains that the process for obtaining permits to export liquefied natural gas from the United States is insanely slow.

This isn't an exaggeration. In over 3½ years, the administration has approved only seven applications to export LNG. The administration is sitting on 24 pending applications. Fourteen have been pending for more than a year, and some have been pending for more than 2 years. These administration delays are unacceptable. The excuses have run out.

We have introduced legislation. LNG exports are a critical component of stopping Russian aggression against our key allies and strategic partners. Nine of our NATO allies import 40 percent or more of their natural gas from

Russia. Four of our NATO allies import 100 percent of their natural gas from Russia. These are our allies. Yet they are heavily dependent on Russia for their energy.

LNG exports would help our NATO allies as well as our strategic partners and allow them to free themselves from Russian energy. That is why our NATO allies are calling on us—on Congress—and the United States to expedite these LNG exports. These will give our allies an alternative supplier of natural gas and enable them to resist Russia's aggression.

It is going to be an added benefit for our country in terms of creating thousands of good-paying jobs here in the United States. As the Economist explained, LNG exports ''could generate tankerloads of cash'' for America. The exports will create jobs in gasfields in Wyoming, steel mills in the Midwest, and at our Nation's ports.

I thank the Presiding Officer.

I yield the floor.

## ENERGY SAVINGS AND INDUSTRIAL COMPETITIVENESS ACT OF 2014—Continued

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I ask unanimous consent for 30 seconds for a unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. Mr. President, I understand that a number of Senators have filed amendments related to energy policy, and I think they ought to be allowed to offer those amendments.

I ask unanimous consent that it be in order for me to offer amendment No. 3013.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THUNE. Parliamentary inquiry, Mr. President. Is it correct that no Senator is permitted to offer an amendment to this bill while the majority leader's amendments and motions are pending?

The PRESIDING OFFICER. The Senator is correct that at present there is no place for another amendment on the Senate's amendment tree.

Mr. THUNE. Then, Mr. President, in order to offer amendment No. 3013, I move to table the Reid amendment No. 3023, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DURBIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Is a unanimous consent request necessary for action just taken by the Senator from South Dakota?

The PRESIDING OFFICER. A unanimous consent was previously granted for two motions to table.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arkansas (Mr. BOOZMAN).

Further, if present and voting, the Senator from Arkansas (Mr. BOOZMAN) would have voted ''yea.''

The PRESIDING OFFICER (Mr. BROWN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—45

| | | |
|---|---|---|
| Alexander | Fischer | McConnell |
| Ayotte | Flake | Moran |
| Barrasso | Graham | Murkowski |
| Blunt | Grassley | Paul |
| Burr | Hatch | Portman |
| Chambliss | Heller | Risch |
| Coats | Hoeven | Roberts |
| Coburn | Inhofe | Rubio |
| Cochran | Isakson | Scott |
| Collins | Johanns | Sessions |
| Corker | Johnson (WI) | Shelby |
| Cornyn | Kirk | Thune |
| Crapo | Lee | Toomey |
| Cruz | Manchin | Vitter |
| Enzi | McCain | Wicker |

NAYS—52

| | | |
|---|---|---|
| Baldwin | Heinrich | Reed |
| Begich | Heitkamp | Reid |
| Blumenthal | Hirono | Rockefeller |
| Booker | Johnson (SD) | Sanders |
| Boxer | Kaine | Schatz |
| Brown | King | Schumer |
| Cantwell | Klobuchar | Shaheen |
| Cardin | Landrieu | Stabenow |
| Carper | Leahy | Tester |
| Casey | Levin | Udall (CO) |
| Coons | Markey | Udall (NM) |
| Donnelly | McCaskill | Walsh |
| Durbin | Menendez | Warner |
| Feinstein | Merkley | Warren |
| Franken | Mikulski | Whitehouse |
| Gillibrand | Murphy | Wyden |
| Hagan | Murray | |
| Harkin | Nelson | |

NOT VOTING—3

| | | |
|---|---|---|
| Bennet | Boozman | Pryor |

The motion was rejected.

Mr. BARRASSO. Mr. President, parliamentary inquiry: Is it correct that no Senator is permitted to offer an amendment to this bill while the majority leader's amendments and motions are pending?

The PRESIDING OFFICER. At present there is no place for another amendment on the Senate's amendment tree. The Senator is correct.

Mr. BARRASSO. Mr. President, in order to offer amendment No. 2981, I move to table the Reid amendment No. 3025.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from Arkansas (Mr. PRYOR), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Arkansas (Mr. BOOZMAN).

Further, if present and voting, the Senator from Arkansas (Mr. BOOZMAN) would have voted ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—45

| | | |
|---|---|---|
| Alexander | Fischer | McConnell |
| Ayotte | Flake | Moran |
| Barrasso | Graham | Murkowski |
| Blunt | Grassley | Paul |
| Burr | Hatch | Portman |
| Chambliss | Heller | Risch |
| Coats | Hoeven | Roberts |
| Coburn | Inhofe | Rubio |
| Cochran | Isakson | Scott |
| Collins | Johanns | Sessions |
| Corker | Johnson (WI) | Shelby |
| Cornyn | Kirk | Thune |
| Crapo | Lee | Toomey |
| Cruz | Manchin | Vitter |
| Enzi | McCain | Wicker |

NAYS—51

| | | |
|---|---|---|
| Baldwin | Harkin | Murray |
| Begich | Heinrich | Nelson |
| Blumenthal | Heitkamp | Reed |
| Booker | Hirono | Reid |
| Boxer | Johnson (SD) | Rockefeller |
| Brown | Kaine | Schatz |
| Cantwell | King | Schumer |
| Cardin | Klobuchar | Shaheen |
| Carper | Landrieu | Stabenow |
| Casey | Leahy | Tester |
| Coons | Levin | Udall (CO) |
| Donnelly | Markey | Udall (NM) |
| Durbin | McCaskill | Walsh |
| Feinstein | Menendez | Warner |
| Franken | Merkley | Warren |
| Gillibrand | Mikulski | Whitehouse |
| Hagan | Murphy | Wyden |

NOT VOTING—4

| | |
|---|---|
| Bennet | Pryor |
| Boozman | Sanders |

The motion was rejected.

The PRESIDING OFFICER. The senior Senator from Minnesota.

## MORNING BUSINESS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## STUDENT LOAN DEBT

Ms. KLOBUCHAR. Mr. President, I want to thank Senators HARKIN, WARREN, and DURBIN for their leadership on the important issue of student debt. In the United States we all appreciate the value of education. We know it leads to higher paying jobs, and we know it leads to better health and even longer lives. Education gives everyone in this country a fair shot.

My grandpa never graduated from high school. He worked 1,500 feet underground in the mines in Ely, MN. He

saved money in a coffee can in the basement so he could send my dad to college. My dad went to a community 2-year college and then went on to the University of Minnesota, where he earned his journalism degree. He went from those hard-scrabble mines in Ely, MN, on to a journalism career where he got to interview everyone from Mike Ditka to Ronald Reagan to Ginger Rogers. My mom taught second grade until she was 70 years old. I still run into people who tell me what a great teacher she was. And here I stand, a U.S. Senator, the granddaughter of an iron ore miner, the daughter of a teacher and a newspaperman, and the first woman elected to this job from my State. One thing I know for sure: It would not have been possible without education. It would not have been possible without my parents, my grandparents, and my teachers, who believed in me and believed in the value of education.

I still remember getting into college. I still remember back then—and I graduated from high school in 1978—that it was $10,000 a year to go to the college I went to. I remember my dad thinking: I can't afford this. We went and met with the student loan and financial aid people. He was wearing his brown polyester pants, and he had all these coins in his pockets. Somehow we were able to get this done through loans and through his financing a good part of it. Back then, on a journalist's salary and my mom's teacher salary, we were able to afford a college like that. But now I see my daughter and I know how much it has changed and how expensive it is. Yet it is still so necessary.

Higher education doesn't just benefit individual students, it benefits our entire economy by creating a more flexible, productive, and mobile workforce at a time when more jobs require some form of postsecondary education. In manufacturing now, more jobs require postsecondary education than not. We cannot allow cost to be a barrier to opportunity when we have job openings right now.

I see my friend the Senator from North Dakota, and I know they have job openings in North Dakota. We have job openings in Minnesota. We have job openings that require skill, that require post-high school skills. Yet a lot of our kids can't afford to get those degrees.

Rising costs for education are putting a strain on families and students and making college seem out of reach for too many young people. Many find themselves deeply in debt long before they set foot in the workplace.

This student debt hangs like an anchor around not just these students but around our entire economy, and it is dragging us down. Graduates with high debt may delay making key investments, such as saving for retirement or getting married or buying a home.

We had a hearing today in the Joint Economic Committee with Chairman Yellen of the Federal Reserve, and she talked about the fact that while our economy is improving, housing is still flat. She talked about the fact that housing is flat because so many young people aren't forming households. They are not getting houses.

Student debt may impact a person's career choices by deterring graduates from taking jobs in order to pursue jobs that allow them to pay their debt. So we don't have people going into teaching.

According to the report I released as Senate chair of the Joint Economic Committee, our State has one of the highest rates of student debt in the country, with 71 percent of recent graduates in Minnesota having a loan debt compared to 66 percent nationally. The average debt load of student borrowers who graduated in 2011 in Minnesota is also more than $3,000 higher than the national average. It is over $30,000 in our State compared to $27,000 nationally.

The good news is that there are things we can do. As you know, Mr. President, last summer we acted to prevent the interest rates on subsidized Stafford loans from doubling. Yesterday we introduced the Bank on Students Emergency Loan Refinancing Act in the Senate. This bill would give student loan borrowers a fair shot at managing their debt by offering them the opportunity to refinance their debt at the same low rates offered to new borrowers in the student loan program.

Outstanding student loans now total more than $1.2 trillion. That even means something in Washington. It surpasses total credit card debt and affects 40 million Americans. That is why I am a cosponsor of the Bank on Students Emergency Loan Refinancing Act—because it is time we gave students a chance to refinance their loans and find better financial footing.

Education is the pathway to economic opportunity. Workers with higher levels of education have experienced much faster wage growth and lower unemployment rates than other workers. But the increasing level of student debt in recent years presents challenges for graduates just beginning their careers. These bright young people should be planning for their futures, not struggling financially because they worked hard to earn their degrees.

Our country has come a long way since my grandpa saved that money in a coffee can in his basement so he could send my dad to college. There are parents all over America who want to do the same thing, but the money they have to save right now couldn't fit in a coffee can. That is why we have to make it easier and not harder for our students.

I urge my colleagues to support this bill and pass this bill so students can manage their debt and build a better future for themselves and for their families.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

ENERGY EFFICIENCY

Mr. HATCH. Mr. President, this is the first time since 2007 the Senate has taken up and considered an energy bill. I am pleased we are finally discussing this important issue. I hope we will also take time to talk about our country's recent boom in oil and gas production.

In the years since our last energy debate in the Senate, the United States has transitioned from a position of inordinate dependence on foreign energy sources to become one of the largest energy producers in the world today. Much of this is the result of technological innovation, and we must do everything possible to make it easier for domestic companies to access, refine, and transport the oil and gas that has become available with recent advances in technology.

In my view, energy efficiency and industrial competitiveness should not be addressed without also addressing energy production. The two are necessarily interrelated, and it makes no sense to treat each in isolation. But that isn't happening today. As a result, we are missing a critical opportunity to have an important debate on how best to invest our Nation's resources to support domestic energy production.

The bill we have been discussing establishes new programs promoting energy efficiencies for buildings and manufacturing. It authorizes new spending for career skills and workforce training. But instead of simply devoting additional resources to energy efficiency programs, we should first understand the impact of existing energy sector programs administered by the Federal Government and, most critically, have a serious conversation about broader energy policy.

If the Senate actually functioned the way it was designed and I was given the opportunity, I would have called up amendment No. 3015, which would eliminate some of the duplication and overlap which has become so prevalent as the size and scope of the Federal Government continues to expand.

Our Federal bureaucracy has grown to the point that government agencies are simply unaware many of the programs they administer are duplicated by similar—and sometimes nearly identical—programs administered in other Federal agencies.

The Federal Leviathan has become so large and complex that the left hand literally doesn't know what the right hand is doing, especially when it comes to spending taxpayer moneys. This is simply unacceptable.

Our national government has grown so unwieldy that coordination between its individual parts cannot be assumed and often must instead be mandated. This phenomenon is certainly the case with many of the programs that would receive funding if this bill was enacted as currently written.

Currently, the Department of Labor, the Department of Education, and the Department of Energy each administer

programs that fund training and education targeted specifically at the energy sector. I am sure the Federal bureaucrats in each of these three agencies are trying to do as best they can. But it can't possibly be necessary or, for that matter, wise for all three agencies to be doing the same thing.

The obvious solution is for the Department of Energy to ensure there are no federally funded programs with the same stated objectives as the programs they are already administering.

My amendment requires the Secretary of Energy to coordinate with the Secretary of Labor and the Secretary of Education prior to issuing any career skills and workforce training funding opportunity announcements to ensure that these three departments are not issuing redundant and overlapping grants.

We cannot keep spending more taxpayer dollars in the same inefficient ways. Energy efficiency is important, but far more important is our Nation's overall energy policy. We should be discussing energy efficiency only as part of that critical debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

## KEYSTONE XL PIPELINE

Ms. LANDRIEU. Mr. President, I wish to speak about the debate which has gone on the last 2 days on this floor about two very important issues related to a stronger energy policy for America.

As I said earlier in the week, and I was proven to be correct, it is unlikely we would develop an energy policy in the next 4 days in open debate on the floor of the Senate. Lots of people came down and talked about things they thought should be in it. Many of those things I agree with, but there is a process we go through, and we are working through—not as quickly as some people would like, but we are making a lot of progress.

Right now on the floor of the Senate are two very important pillars or two very important cornerstones or two very important first steps which could be taken in the building of a stronger, more vibrant, more commonsense, more middle-class-friendly, more job-creating energy policy than the one we have right now.

The saddest thing about watching this debate or speeches which sort of parade as if it is a debate, but it is not really—pretend that it is a debate but it is not—the speeches we have heard are not outlining the truth to the American public about what is going on.

We have the opportunity the next time the Senate gathers early next week to have a cloture vote on an energy efficiency bill. That means bring debate to an end and vote on an energy efficiency bill which will create hundreds of thousands of jobs, supported by the U.S. Chamber of Commerce, the American Chemistry Council, and the Environmental Defense Fund. Hundreds of organizations have come together across the political spectrum looking here for common sense and cooperation, and they are not finding much of either.

These coalitions have spent an enormous amount of time lobbying Members of the House and the Senate to pass an efficiency bill led by Senator SHAHEEN and Senator PORTMAN, two very respected Members of this body—one Republican with strong conservative credentials, one Democrat with strong progressive credentials but both demonstrating in their career the ability to work together and find common ground, exactly what the American public is asking for. We can ask any Republican, any Democrat, any Independent, and they say: Can't you all work together and find a way forward?

So Senator PORTMAN and Senator SHAHEEN did. They brought a bill to committee. I wasn't the chair. I can't take credit for this. RON WYDEN is the chair and LISA MURKOWSKI is the ranking member. They can take credit for this. They came up with a fantastic bill which creates jobs, saves a lot of energy, and is our best source of energy through efficiency. It creates jobs right here in America. It is the cleanest energy we can produce.

So these two terrific Senators come and bring us a bill. It is debated in public, in committee, and amazingly comes out of committee I think on a vote of 19 to 3, a very important piece of building an energy policy.

Even as chair of this committee now—and I hope to remain chair for many years to come. There is an election between that and that aspirational goal, so we shall see. I would like to remain chair. But I can promise it is not going to be one bill which comes out of the energy committee that builds an energy policy.

First of all, part of the bills have to come out of the Finance Committee. They are about tax policy related to the generation of all sorts of different kinds of electricity not even in my jurisdiction. There are some issues that have to come out of the commerce committee, which has jurisdiction and authorization over pipelines. There are other committees that are going to have to contribute to strengthening and building an energy policy where America can be independent and secure, where we can have partnerships with Canada and Mexico, producing the cleanest fuels possible and generating electricity in the cleanest way possible, abundantly and affordably and reliably for our people, that will make manufacturing soar in this Nation, that will give opportunities for more domestic drilling both onshore and offshore.

The people I represent want this so badly, and they know it can happen. I am not sure why more Senators don't understand this can happen, but it is going to take cooperation. It is going to take a little give-and-take. I guess that is too much to ask and that is so sad. I guess it is too much to ask for a little cooperation and a little give-and-take.

So this energy efficiency bill comes to the floor, and it is held up because many Members want other pieces of the energy plan. They most certainly have good ideas. Most certainly there are good ideas out there on both sides of the aisle, but there is one idea that is very powerful. To say how powerful it is, I am not going to read my words about it. I have already spoken about it is time to build the Keystone Pipeline now. It is time to stop studying now.

I respect the President's review of the situation. I disagree with the length of time he has taken and with the decision he made last week to continue to study. I have said respectfully to him: Mr. President, the time for studying is over. The time for building is now. The process has run its course over 5 years, five studies. Every one of them has come down on the side of building it for jobs, for security, and it is better for the environment to transport this product, these oil sands, from one of our best friends, Canada, by pipeline than by either rail or truck.

Everyone in this country knows how dangerous and crowded the highways and railways are. One does not need to serve on the transportation committee of the Senate or House to understand that issue. Every mother, every father, every 17-year-old with a driver's license—in our State it is 16, and maybe in some States it is 20—understands how scary it is to drive on highways with big trucks filled with, unfortunately, sometimes dangerous things.

Why would we want this for our children? Why can't we add to the 2.9 million miles of pipeline we have and build a pipeline with Canada? We are not talking about building a pipeline with Cuba or Venezuela. We are talking about Canada—our best ally, our greatest trading partner, and our partner on the frontlines of wars, in the research labs we partner with them—to build a pipeline to safely move oil they are going to produce one way or another because they need it for their economy and the world needs it. They have the highest environmental standards in the world.

Our highways are crowded. Our trains are crowded. Trains are colliding all over the country. Every morning in some section of the country there is another train that has run off the track with horrible materials being spilled into waters and rivers. I think Democrats are upset about that, Republicans are upset about it.

There is one very big idea, very big amendment to the efficiency bill I think the Republicans would truly like; that is, to have a vote on the Keystone Pipeline. As the chair of the committee, I know that is their strong feeling. I am a supporter of the Keystone Pipeline. So I think to myself: Let's see if we could maybe make this work.

The Republican leadership has been saying for months they want a vote—not a resolution, not a sense of the Senate, which we have already had, but a straight up-or-down vote on a directive to build the pipeline.

So I think to myself: This seems to be fair, a little give-and-take. Democrats aren't happy—not everybody—with the Keystone Pipeline, not all Republicans are happy with the efficiency, but the business community is broadly supportive of both and so are labor unions. So we have labor unions, the business community, and the environmental community which is strongly in favor of efficiency.

Of course many of the strongest voices are not for Keystone and I understand that. We have a different view. I respectfully disagree with their position, but this is a big country. It is a democracy, and we represent that democracy right here at these desks.

So I think to myself in my Louisiana way: Maybe if every side gives a little bit, we could get two very important things done, when nothing much is getting done in the energy sector, which is what we need to move our economy forward, to get labor unions working, to get people who aren't in labor unions working, to create jobs—hundreds of thousands, millions of jobs. Everybody is talking about that in their campaigns.

It is upsetting to me to know how many people are running for reelection in this Chamber who go home and talk about jobs and then turn around and come here and vote no. They talk about jobs at home and vote no in the U.S. Senate—no for efficiency jobs, no for the Keystone Pipeline.

It is very interesting. I am going to read what some of the Republican leaders have said about Keystone. Maybe they have changed their minds since they have said these, and over the weekend maybe the press could ask them if they have had a change of heart.

Senator WICKER said on January 25, 2013:

> Many Americans understand the economic importance of moving forward with the Keystone pipeline and what that means for job creation and energy security in the United States. It is imperative that we continue to press the Administration to approve this critical project.

So next week on Monday or Tuesday, my friend, the Senator from Mississippi, is going to have an opportunity to vote to press the President on Keystone and to vote for a bill that he is a cosponsor of—the energy efficiency bill. Again, he is going to have a chance to press the President of the United States to build the Keystone Pipeline, using all the power he has as a Senator from the State of Mississippi to do that, and to vote on the energy efficiency bill. I hope he will follow his words and his promise.

Senator CHAMBLISS and Senator ISAKSON, in a letter to President Obama on February 11, 2014, said:

> By any reasonable standard, the Keystone Pipeline is clearly in our national interest. Keystone will greatly advance our energy security interests by establishing a reliable supply of oil from one of the most stable trading partners and closest friends, and will lead to economic growth and help create good jobs, sustainable jobs for U.S. workers.

I would like to add my name to this. They might not want me to, but I would like to add my name so it would say that Senator ISAKSON, Senator CHAMBLISS, and Senator LANDRIEU believe in this. I couldn't have said it better myself.

So I wonder what they will do next week when we have a chance to vote on the efficiency bill and on the pipeline.

Senator CORNYN, the minority whip, on May 7, said:

> It might be better to build this pipeline so we could safely transport oil from Canada down to refineries in my State where it can be converted to gasoline, aviation fuel and the like, and the process will create an awful lot of jobs.

May 7 floor statement from Senator CORNYN.

This pipeline connects to refineries in Texas. So I wonder, the Senators from Texas—Senator CRUZ, Senator CORNYN—are you going to vote for an up-or-down vote on Keystone and vote on the efficiency bill? You can vote no, you can vote yes on the efficiency bill. Energy efficiency may not be important to people in Texas. The chambers of commerce in Texas may not have a position. I think they are very supportive, from what I have looked at, and the national chamber of commerce is on board. Maybe that is not important to them, but I think it is.

I spend a lot of time in Texas. It is a neighboring State. They have a big economy. I do a lot of work for their coastal restoration. People tell me that even though jobs are plentiful in Texas, thank goodness—not in every community but in many communities and in Louisiana—we can always use more. Building and construction jobs are local in nature, putting our architects and engineers to work. The engineers were in my office last week saying: Senator LANDRIEU, some of our engineers are busy, but some of them aren't, and we could put a lot of engineers to work on this energy efficiency bill.

So if Senator CORNYN wants to actually build the pipeline and press the President to build it, he is going to have a chance to vote up or down on whether he wants to do that, and the opportunity is to do it in conjunction with an up-or-down vote on an energy efficiency bill. Democrats get a little bit of what they want, Republicans get a little bit of what they want, and what the country gets is cooperation and a chance for jobs, which is all they want, really—good jobs.

Senator INHOFE:

> President Obama and the administration no longer have a valid reason to stall the final stages of the pipeline. Approving the Keystone Pipeline is one thing the President can do today with his pen that will create thousands of jobs.

The President said he is not going to do it. The question is, Will Senator INHOFE join with enough of us to pass a bill that presses him to do it? I think if we could get the vote on the floor, we might be able to get our 60 votes. I have never said we were guaranteed—there is no guarantee, but we are very close. We have 11 Democratic cosponsors, including myself, on a bill with 45 Republicans. We are just three or four short. I think that would be defined as ''pressing.''

Senator BURR said this in January 2012:

> Today I join 43 other Senators in introducing a bill to continue construction on the Keystone XL Pipeline, a project that will take great steps towards improving our energy security as well as create jobs for thousands of American workers. Despite claims that promoting energy security and creating jobs are top priorities, President Obama has rejected the permit earlier this month.

Senator MCCONNELL said:

> The Keystone Pipeline—a good example of something that would create jobs for the American people.

As Senator MCCONNELL knows, there might be quite a few people from Kentucky who are out of work who could travel not too far. It is better to work at home and be with your family and kids—I understand that—but lots of times people have to travel distances to work. Sometimes people want to travel those distances because the jobs available to them at home are minimum wage, and if they travel and get out, they can make handsome sums—working tough hours and long hours, but people have been doing it for decades. I know there are people in Kentucky who would like jobs. So I am hoping that next week when Senator MCCONNELL has some time to think through this as the minority leader, he can come to the floor and say: You know what, this isn't such a bad deal after all.

Senator SHAHEEN and Senator PORTMAN have presented a bill that is supported by the Chamber of Commerce and the Environmental Defense Fund and so many business organizations that depend on me and Senator REID to help them create private sector jobs in America.

This isn't a government program. This is creating private sector high-paying jobs, saving energy. We have been working on it for 5 years. This is not a new idea. This is not something Senator SHAHEEN and Senator PORTMAN are doing in an election year.

I thank Senator SHAHEEN for her great leadership. She started working on this when she was Governor, before she even got to the Senate of the United States. She is an expert on energy efficiency. I can remember when former-President Clinton came to our caucus several years ago. Senator SHAHEEN was one of the first to stand up and ask him several important and very timely questions and say: Mr. President, you have given us a way forward here on a piece of energy legislation that I think both Republicans and

Democrats can support. I am looking forward to leading it.

This was years ago. This isn't an election-year ploy; this is a half a decade of work.

So my question to my Republican friends is, Do you want to build the Keystone Pipeline or do you want an issue to talk about? Because it seems to me that we can get a vote on the efficiency bill and on the Keystone Pipeline, so we actually are doing what you all say you want to do, which is to press the President.

That is all our power is. I know it is hard for people to realize this, but our powers are limited by the Constitution. We are Senators; we are not Presidents. We have equal power to the Presidency, not more and not less. So while some people might want to run around and convince people in their hometowns that they have more power than the President, they do not. They have equal power. So let's exercise it. Let's press, which is what our job is—pressing the administration. Sometimes administrations don't want to do what Congress does, so Congress presses forward. But we don't want to press, I don't think. I think they want to talk or have an issue to talk about.

I would like to have a vote. I would like to separate the wheat from the chaff, clear the fog. This is not complicated at all.

You have heard a lot about amendments, amendments, amendments. There is one thing that is more important than all the amendments—more important than Senator VITTER's amendment, Senator BARRASSO's amendment, more important than any amendments on our side—that is, are we going to vote to build the Keystone Pipeline? Right now, 70 percent of the people of the United States support building the pipeline. Right now, the studies have been completed. Right now, the evidence is in.

I know there are people on this floor who disagree, and I want to be as respectful as I can. There is no one on the floor here debating this now, but if you did come, I would most certainly appreciate you talking about it if you are opposed. I know there are people who still feel as if Keystone is not the right thing to do, but the evidence is in on that, and we should build it. It is important to secure America's domestic production. It is important for America to not rely on outsiders—particularly those who aren't our friends—for the energy we need to keep our economy growing and strong.

It is very disheartening for me to read the headlines every day—and I know from my constituents that it is for them, too—and see what is going on in Ukraine and watch Europe not being able to be as strong as I know Europe wants to be. I know they want to be stronger, but because they depend so much on Russia for their gas and they are not energy independent, they have to be careful about what they do to come to the Ukraine's aid. Anybody can understand that. It doesn't take a diplomat to explain what is going on.

Does America ever want to be too weak to stand up to Russia? I don't think so. Does America ever want to be too weak to stand up to China? No. Do we ever want to be too weak to stand up to India if we have to, or Venezuela? No. So build the pipeline. We have already built 2.9 million miles of pipe. I have 9,000 miles of pipeline in Louisiana. We have been building them a long time. Yes, sometimes they have not been laid correctly. Yes, Federal agencies and State agencies have failed the people in many instances in making sure the environment was as protected as it should be. But we know how to build energy infrastructure. And I will tell you that the people of Louisiana would much rather build infrastructure than put uniforms on our sons and daughters and send them halfway around the world so we can get gasoline in our cars.

Let me put it plainly. I lost 44 men in Iraq and Afghanistan. Gone. I have hundreds of wounded soldiers. When you ask me what the price is—build the Keystone Pipeline or continue to have wars over oil—I don't know, it is pretty easy for me.

I am not going to let people come down to the floor here and get away with talking about these amendments because it is not about amendments. It is not about process. It is about whether this Senate wants to press this legislation. Press. That is all we can do. We can't make the President do anything unless we can override the veto if he vetoes it, and that has happened before—not often, but it has happened—but that is what the Constitution says.

So let's take it one step at a time. Let's press on to build the pipeline, get an up-or-down vote. Let's move forward on an energy efficiency bill that the House has actually, amazingly, passed a good version of. Think about it. Not only has a Democratic-controlled Senate passed an efficiency bill with seven Republican cosponsors and at least a dozen more who I know would vote for the bill if allowed to by their leader, Mr. MCCONNELL, but the Republican-controlled House has already passed an energy efficiency bill. So we would just go to conference with these two bills and work out the details, and all of these organizations that have lobbied and spent money and time to try to explain this to us—''Please, can you all help us create jobs we need right here at home? We would be so happy and encouraged that the Democratic process is working''—showing them that we are hearing them and listening to them would be a really terrific step forward.

Finally, you will hear some Republican leaders say: Well, Senator, that sounds great, but you have to deliver us 60 votes for Keystone.

No, I never said I could deliver 60 votes for Keystone. I said I would try to deliver 60 votes. That is all I can do.

I said I would try, and I have tried my best. We had three Democrats last year. We now have 11 Democrats. I am not doing this by myself. Senator HEITKAMP has been extraordinarily helpful, Senator MCCASKILL has been wonderful, and Senator TESTER has been helping, as has Senator DONNELLY. So many of our colleagues have been working very hard over here. We are so close. It is not about amendments, it is about Keystone. That is the amendment, Keystone.

If we can have a separate vote on Keystone and a separate vote on energy efficiency, we can press the House to act and get those two matters, hopefully, to the President's desk. That is the best we can do. What the President decides to do after that, I don't know. He has a responsibility, and we have a responsibility. He will exercise it as he sees fit, but we need to do our job. We can't worry about doing his job. He needs to do his job.

It is time to build the Keystone Pipeline.

I will submit for the RECORD the dozens of comments made by my Republican friends about how important it is to build the pipeline. They didn't say: Let's build the pipeline and also pass three other important pieces of legislation. They didn't say: Let's build the pipeline, but we don't really want to build the pipeline until we can get votes on X, Y, and Z. They said the most important thing we can do—and 70 percent of the American public supports it, and it is growing every day—is to build this pipeline. Labor and business support it. A broad range of people supports it, with the exception of Nebraska, which has not made its final decision. Our law allows for Nebraska courts to make the final decision about where that pipeline will be laid because the people of Nebraska did not want it laid in one of the largest water aquifers in North America, so they moved the line, which is appropriate, and so that is being worked out. Other than that, we are ready to go.

I particularly hope the people of Kentucky will ask Senator MITCH MCCONNELL if he is ready to build the Keystone Pipeline and if he is ready to vote to press the President to build the Keystone Pipeline, which is within the limits of our power. Our powers are limited, but we could exercise them to the fullest. I hope we will do that, and I hope next week we will get a straight-up vote on the efficiency bill Senator PORTMAN and Senator SHAHEEN have worked so hard on that is supported by a broad range of coalition members, and I hope that coalition will generate and get its members activated between now and Tuesday.

I hope those in America who want to build this Keystone Pipeline will also activate their phones, their emails, and contact their legislators, particularly our two leaders HARRY REID and MITCH MCCONNELL, who will ultimately be responsible for whether these votes occur.

All we can do is do our best. I think I have demonstrated a real effort to get

this done, and I thank my colleagues over here who have been extraordinarily helpful. We hope we can find common sense, common ground, and do what the Senate of the United States can do, press forward to create jobs for the American people.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, I am here now for the 66th consecutive week the Senate has been in session to ask my colleagues to wake up to the threat of climate change. The topic has become taboo for Republicans in Congress, and so the discussion on climate change is somewhat one-sided around here, but the recent comprehensive National Climate Assessment released this week shows Americans are witnessing the effects of climate change in every State of our Nation.

Colleagues, read the assessment. Find out how climate change is affecting every region of the country.

In March I visited Iowa, where I heard over and over that Iowans are awake to the threat of climate change and are actually ready to hold Presidential candidates accountable on climate when they go there for the first-in-the-Nation Presidential caucus.

Over the April recess I spent 5 days traveling down the southeastern coast of North Carolina, South Carolina, Georgia, and Florida. I went there to talk to people on that coast firsthand. I met with scientists, students, outdoorsmen, faith leaders, and State and local officials—people of diverse backgrounds, but all of them have one thing in common: their concern for the coastal communities they love. These folks know climate change is real because they see it where they live. They are not waiting around for this Chamber to get organized. They are acting.

Last week I spoke here about the business owners, community leaders, and researchers I met in North Carolina. From there I headed into South Carolina. My first stop was the University of South Carolina's Baruch Institute for Marine and Coastal Sciences.

At the Baruch Institute, I learned how salt marshes—the ocean's nurseries and our first line of defense against storms and hurricanes—have to adapt to rising sea levels. These marshes retain sediment as the tide goes in and out, and they slowly increase their elevation as the sea level rises, if given enough time.

Dr. Jim Morris, director of the Baruch Institute, has been studying these marshes for decades. He is a renowned expert. He explained that sea level rise is starting to happen so fast that the marshes may not keep up. If they can't keep up, then the marsh deteriorates to mudflat, and the mudflat deteriorates to open water, which is already happening in places I visited. That deterioration from marsh to mudflat can devastate coastal property, infrastructure, and wildlife.

Business as usual means sea level rise increases of 3 feet or more by 2100. This chart illustrates what the Baruch Marine Institute and surrounding marshes would look like after this sea level change—before and after. It would be pretty much a goner.

Next I visited the Cape Romain National Wildlife Refuge, which extends for 22 miles and encompasses more than 6,000 acres of barrier islands, salt marshes, intricate coastal waterways, sandy beaches, fresh and brackish water impoundments, and maritime forest. Sea level rise threatens this area as well.

One signal: Last year over 70 percent of endangered loggerhead turtle nests had to be relocated by people in order to prevent them from being flooded. This is a place where these turtles have been nesting for centuries, but now look at how coastal erosion is affecting their nests. These are the turtle eggs, and the coast has eroded. National Park Service officials there told me:

> This is not just about wildlife. This is about the community. It's about your livelihood and well-being.

They are right.

According to a foreword in the report titled ''Climate Change Impacts to Natural Resources in South Carolina'' by Alvin Taylor, director of the South Carolina Department of Natural Resources—I mean, tell me how people from South Carolina are denying climate change is real when the State published a report called ''Climate Change Impacts to Natural Resources in South Carolina.''

Here is what the report says:

> Climate-related changes may adversely affect the environment in many ways, potentially disrupting or damaging ecological services, water supply, agriculture, forestry, fish and wildlife species, endangered species, and commercial and recreational fishing . . . Fishing, hunting, and wildlife viewing contributes almost $2.2 billion annually to South Carolina's economy and supports nearly 59,000 jobs.

How can they pretend it is not real? Business owners and executives in South Carolina are starting to take action on climate change. There is a South Carolina Small Business Chamber of Commerce, headed by Frank Knapp, who has organized something called the South Carolina Businesses Acting on Rising Seas to raise awareness among businesses and their customers of the threat posed to the Palmetto State. In cities including Charleston and Myrtle Beach, coastal businesses threatened by rising sea levels are displaying strips of blue tape in their window fronts where the water level would be to show their support for taking action.

I continued down the coast and visited Charleston's Fort Johnson, where marine research facilities are located for NOAA, the College of Charleston, the South Carolina Department of Natural Resources, and the Medical University of South Carolina. The tide gauges in Charleston are up over 10 inches since the early 1920s. Deny that all you want. It is a measurement, it is not a theory.

This chart shows what Fort Johnson would look like with 3 feet of sea level rise, which is projected for 2100. Nearly all the research facilities at Fort Johnson would be lost ironically to the very seas their research helps us understand. Three feet could actually be on the low end of sea level rise by 2100. This chart of Fort Johnson demonstrates what 3 feet of sea level rise looks like.

During my visit at Fort Johnson, I heard from students, faculty, elected officials, and Federal and State employees all working at the leading edge of climate change and adaptation research. One scientist, Dr. Peter Moeller, described how climate change is allowing algae species to grow in waters where they were previously not found. As these algae species migrate to new areas, they encounter bacteria, fungi, and other unfamiliar algae. As Dr. Moeller explained to me, under these conditions, previously nontoxic algae can make dangerous toxins that are novel to science and nature. It almost sounds as if science fiction, but these are the consequences of human-caused climate change.

My last stop in South Carolina was at a roundtable discussion at the Coastal Conservation League. There I heard from a diverse group of South Carolinians—researchers, environmental advocates, business owners, and faith leaders—about their efforts to raise awareness to the threats of climate change and to promote clean energy. I learned this: South Carolinians are not afraid to talk about climate change and how it is affecting their State—at least not until they get to Washington.

When WCBD-TV in Charleston asked Representative MARK SANFORD about my visit to his State, he actually said something quite nice. He said:

> At our family farm in Beaufort, I've watched over the last 50 years as sea levels have risen and affected salt edges of the farm. I applaud Senator WHITEHOUSE for getting people together in the Lowcountry today to discuss this problem, and while we would likely approach solutions differently, building the conversation is a necessary first step.

That is a helpful opening, and I appreciate that.

Jim Gandy, chief meteorologist for WLTX Columbia, has been forecasting South Carolina weather for 28 years. He is affectionately known as South Carolina's weatherman. Jim was at the White House this week to interview President Obama about the National

Climate Assessment. Through his blog, ''Weather and Climate Matter,'' and his broadcasts, Jim makes weather and climate understandable for his viewers. I spoke with him while I was in South Carolina, and I learned that his TV station thought it may actually take some heat for Jim's discussing climate change on the air, and they were braced for the flow back. It never came. South Carolinians have their eyes open. It is only taboo here in Washington.

I continued down into Georgia, to the heart of the Savannah Historic District. Audrey Platt, the former vice-chair of the Garden Club of America's Conservation Committee, invited me to her historic home in Savannah for a local meeting of the Garden Club joined by Savannah Mayor Edna Jackson. Also there was Reverend Mary Beene from the Faith Presbyterian Church who talked about the M.K. Pentecost Ecology Fund they run for ecological stewardship of natural resources.

We headed out to Fort Pulaski and Tybee Island. There is a tide gauge at Fort Pulaski. It takes measurements. It is not complicated. It produces clear, irrefutable facts, not theories. At Fort Pulaski, NOAA measures that sea level has risen over eight inches. Projections for 2100 put most of this region under water. This chart shows that sea level rise of 3 feet will devastate the area.

Here is Fort Pulaski, GA, and the coast around it. That is what is left with 3 feet of sea level rise.

On Tybee Island I had lunch with city officials and council members, representatives of the Georgia conservancy, NOAA scientists, Georgia Garden Club members, and local sustainability directors. The message was clear: Sea level is rising. Oceans are warming. Infrastructure and ecosystems that Georgians depend on are being threatened. One example: According to a University of Georgia biologist, sea level rise will affect the State's oyster crop. The oysters in Georgia thrive at the tidal edge, sometimes above water, sometimes below water, as the tide goes up and down. As rising sea levels come up, it will cause the oyster habitat to shift or leave them vulnerable to predation as they spend more time under water. Being out of the water actually protects them from underwater predators.

The people of Tybee Island are preparing. Councilman Paul Wolff showed me the storm-water tide gate, which the City of Tybee put in place to accommodate higher tides and rising seas. He explained to me that the road out to Tybee Island—Tybee Road—which is, by the way, the island's only access road, will be flooded as much as 45 times per year with just one foot of sea level rise, and the city has already put in place a short-term plan for 14 to 20 inches of sea level rise by 2060. What does that do to an island's economy if, 45 days of the year, people can't get there?

Down the coast, I visited the University of Georgia's Marine Institute at Sapelo Island and its director Dr. Merryl Alber. Sapelo is a barrier island off the coast of Georgia managed by the Georgia Department of Natural Resources. The Marine Institute is a world renowned field station for research into coastal ecosystems. Here I learned how they measure what they call blue carbon, the amount of carbon stored in the salt marsh. They are doing that as part of the National Science Foundation's long-term ecological research program.

Salt marsh, as it turns out, are huge carbon sinks. They absorb massive amounts of carbon. But the carbon that is stored there may be returned to the atmosphere and add to the climate problem if salt marshes succumb to sea level rise and have nowhere to migrate. We also heard how the intruding salt water is changing local marsh ecosystems and jeopardizing fresh water supply.

Georgia actually runs a Coastal Management Program Coastal Incentive Grant Program to increase knowledge about sea level rise. If Georgia runs a Coastal Management Program Coastal Incentive Grant Program on sea level rise, how can people who represent Georgia in Washington pretend this isn't occurring?

I ended the day in Georgia out on the water with Charlie Phillips, who is a terrific character, a great guy to be with—a local, very successful clammer. We went out on his air boat over the marshes that he built himself. He is also very knowledgeable. He is a member of the South Atlantic Fishery Management Council that runs the regional fishery. He has been an outdoorsman his whole life, and he needs fresh, clean water for his Georgia clams. Unfortunately, Charlie says that changes in climate are hurting the ecosystem that supports his livelihood—his and his employees. He worries about the future of his business.

This is South Carolina and Georgia. When you actually go there, what do you find? Business owners, researchers, faith leaders, and elected officials, all responding to changes that they are witnessing. They understand. They see the risks that climate change poses, and they hope their representatives in Congress will wake up to the danger of climate change, the home-State danger that their constituents are already seeing happening right around them.

After seeing the beauty of both South Carolina and Georgia along those lovely coasts, it is painful to see there the early warning symptoms of climate change. It called to mind President Theodore Roosevelt's message from more than 100 years ago to America's schoolchildren. It is sort of old fashioned language, but that was 1907. He said this:

> [I]n your full manhood and womanhood, you will want what nature once so bountifully supplied and man so thoughtlessly destroyed. And because of that want, you will reproach us, not for what we have used, but for what we have wasted. . . . [A]ny nation which in its youth lives only for the day, reaps without sowing, and consumes without husbanding, must expect the penalty of the prodigal. . . .

The people I met in South Carolina and Georgia, along with a huge majority of Americans nationwide, know that climate change is real. They see it happening in their lives, and they want us to take action. It is time for Congress to listen to their voices. It is time for Congress to listen to the fishermen who see the fisheries moving around and the oceans warming. It is time for us to listen to the clammers at the seashore who see the changes in the sea level and know what it means for them. It is time for us to listen to the foresters who see the pine beetle killing forests by the hundreds of square miles, and the firefighters who fight fires in those forests who see the fire season expanding by 60 days. It is time for us to listen to the farmers who see unprecedented drought and flooding. It is time for Congress to listen to the voices of their constituents before we all, in our foolishness and in our folly, must pay the penalty of the prodigal. Indeed, it is time for Congress to wake up.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

## DEPARTMENT OF VETERANS AFFAIRS

Mr. MORAN. Mr. President, I spoke yesterday on the Senate floor about my concerns with the nature of the way the Department of Veterans Affairs is being operated. Much of my concern occurred as a result of conversations I have had with veterans back home in Kansas and their experiences both on the benefit and medical side—some real concerns with individual examples of what has happened in some of our VA facilities in our State, and this growing sense that the Department of Veterans Affairs has become unable, unwilling, to provide the necessary services in a cost-effective, efficient, timely manner that our veterans so deserve.

As I indicated yesterday, there is no group of people I hold in higher regard than those who have served our country and believe that the benefits that were promised our veterans must be provided to them, and I am concerned that is no longer the case.

I also indicated yesterday that I have served on the House and Senate Veterans' Affairs Committee for now 18 years. I was the chairman of the health care subcommittee. I have worked with nine secretaries of the Department of Veterans Affairs. During that time I always had the sense, until the last few years, that things were always getting better for our veterans. Today, the frustration that I bring to share with my colleagues is the belief that many veterans no longer have hope that the

Department of Veterans Affairs is there to meet their needs and to care for them.

In preparing for those remarks yesterday—but really in studying this issue over the last several years—there is a real shocking development, which is the number of times we hear stories, incidents, facts about what is going on with our veterans at the Department of Veterans Affairs and the services being provided. Just to highlight to my colleagues, based upon inspector general reports that are then, in part, based upon press reports, are some things we have seen and heard about the Department of Veterans Affairs and their efforts to care for America's veterans.

The one that is in the news at the moment—there is an additional IG report that is being anticipated—the Phoenix Veterans Affairs Hospital administration apparently developed a secret waiting list of up to 1,600 sick veterans who were forced to wait months to see a doctor. It is believed that at least 40 U.S. veterans died waiting for their appointment as a result of being placed on the secret waiting list. Again, this is being investigated, a report is expected, and we will see what that report says. But, clearly, this is one of huge concern, resulting in potentially the death of veterans.

There is a wait time cover-up. According to the GAO—the Government Accountability Office—last year, quoting them:

> It's unclear how long an appointment has been delayed because no one can really give you accurate information . . . It is so bad that [GAO staff] have found evidence that VA hospitals tried to cover up wait times, fudged numbers, and backdated delayed appointments in an effort to make things appear better than they are. In addition, the GAO states that ''nothing has been implemented that we know of at this point'' despite the fact that the GAO and the VA Inspector General ''reported similar findings for over a decade.''

Reports of falsifying records were stored in the VA clinic at Fort Collins, CO, where the VA's Office of Medical Inspector found that ''clerks were instructed on how to falsify appointment records so it appeared the small staff of doctors was seeing patients within the agency's goal of 14 days.'' In fact, the investigation determined that clerical staff at the Colorado clinic were punished if they allowed records to reflect that a veteran waited longer than 14 days. Let me say that again. In fact, the investigators determined that clinical staff at the Colorado clinic were punished if they allowed records to reflect that a veteran waited longer than 14 days.

No oversight in quality of care. In December, the GAO reported on VA hospitals finding that patients were not being protected from doctors who have historically provided substandard treatment. None of the hospitals examined by the GAO in Dallas, Nashville, Seattle, and Augusta, ME, adhered to all of the requirements to review and adequately identify providers who are able to deliver safe, quality patient care.

In Los Angeles in 2012, more than 40,000 requests for diagnoses were ''administratively closed'' and essentially purged from the books so reported wait times would be dropped. In Dallas in 2012 another 13,000 appointments were canceled. According to the Washington Examiner, the VA canceled more than 1.5 million medical orders with no guarantee that the patients actually received the treatment or that the tests that were required by those orders were given.

By the VA's own admission in an April of 2014 fact sheet, cancer screening delays accounted for the deaths of at least 23 patients in VA facilities nationwide, and another 53 patients suffered from some type of harm due to improper care. Reports have also linked poor patient care, maintenance issues, and unsanitary practices to at least six preventable deaths in Columbia, SC, five in Pittsburgh, four in Atlanta, and three each in Memphis and Augusta, GA.

Other reports:

More than 1,800 veteran patients in the St. Louis VA Medical Center may have been exposed to HIV and hepatitis as a result of unsanitary dental equipment. The facility has remained under fire for patient deaths, persistent patient safety issues, and critical reports. Despite the problems at the medical center, the facilities director from 2000 to 2013 received nearly $25,000 in bonuses during her tenure there.

CNN reported that after they obtained VA internal documents that deal with patients diagnosed with cancer in 2010 and 2011, at least 19 veterans died because of delays in simple medical screenings such as colonoscopies or endoscopies at various VA hospitals or clinics. Let me say that again. In 2010 and 2011, 19 veterans died because of delays in getting simple medical screenings related to cancer. The veterans were part of 82 vets who have died or are dying or have suffered serious injuries as a result of delayed diagnosis or treatment.

Loopholes in VA performance. An Iraq and Afghanistan combat vet, who is also a former mental health administrator at the VA Medical Center in Manchester, NH, said in April 2012 that VA hospital managers across the country regularly sought loopholes to get around meeting performance requirements. He explained that ''meeting a performance target, rather than meeting the needs of the veteran, becomes the overriding priority in providing care.'' He went on to say that ''offering bonuses to managers to make sure they met performance requirements creates a perverse administrative incentive to find and exploit loopholes . . . that will allow the facility to meet its numbers without actually providing the services or meeting the expectation the measure dictates.''

Finally, this one. It is not from the inspector general's report. But in a hearing before the House Veterans' Affairs Committee on April 9—about a month ago—the deputy for the VA inspector general for health care inspections stated:

> I believe that the VA has lost its focus on the importance of providing quality medical care as its primary mission. . . . There is no good explanation for these events. They are not consistent with good medical practice, they're not consistent with common sense and they're not consistent with VA policies that exist.

It is amazing to me—it is so troubling to me—we have these reports over a long period of time across the country—not isolated incidents. It is even more troubling to me—despite these reports, these inspections, these criticisms of the VA—it is hard to find any evidence the VA is doing anything to improve its record, its performance, or to better care for the veterans of our country. We should demand more, and we need leadership at the Department of Veterans Affairs that will do so.

As I indicated yesterday, I do not believe this is a matter of money. There has been a 60-percent increase in VA spending since 2009—normal increases of 2, 3, or 4 percent each year over the last several years. As I indicated yesterday, the President himself talked about how successful the administration has been in providing the necessary resources for the Department of Veterans Affairs.

Our veterans deserve better care and treatment. These are the folks we ought to honor and esteem. These are the people who we must live up to with our commitments to provide the benefits and health care they deserve and have earned.

If these were isolated instances, they would be a terrible thing. But because they are so pervasive, because they are so widespread, and because there appears to be no effort to correct the problems, it is important—it is critical—that Congress and the American people demand better service, care, and treatment for our Nation's heroes.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRANKEN. Mr. President, I wish to speak today as in morning business.

The PRESIDING OFFICER. The Senate is currently in morning business.

## STUDENT LOAN DEBT

Mr. FRANKEN. Thank you, Mr. President.

I rise today to talk about the growing problem of student debt and the college affordability crisis that is gripping our Nation. I also rise to talk about one of the things we need to do

to address this crisis; that is, to pass the Bank on Students Emergency Loan Refinancing Act, which I was proud to join Senator ELIZABETH WARREN of Massachusetts in introducing yesterday.

We have to take action on student debt because it is a huge problem in this country. The total amount of student loan debt held by Americans is more than $1.2 trillion today—surpassing the total amount of credit card debt in our Nation. More and more Americans are becoming saddled with large amounts of student debt and that limits their ability to buy homes, save for retirement, and make other purchases that will help keep our economy growing.

My State—Minnesota—has the unfortunate distinction of being the State with the fourth highest average debt for students graduating from a 4-year college, at over $30,000 per student. Over the last several years, I have held college affordability roundtables in Minnesota to hear from students and families about the challenges they face in paying for college and to talk about ways to make the situation better. Let me tell you about one of the stories I heard.

Last month, at the University of Minnesota in Minneapolis, I met Joelle Stangler, a sophomore who is the incoming student class president. With a 4.12 GPA, Joelle graduated from Rogers High School in Minnesota as their valedictorian. She was also senior class president and the captain of her volleyball team. Joelle does not lack motivation when it comes to school.

Both of Joelle's parents were teachers, and, in fact, she comes from a long line of educators going back six generations. But a couple years ago, Joelle's mom Cassie Stangler made the difficult decision to quit her job as a fifth grade teacher to go to work in the private sector, where she could get more money, so she could help send her four kids to college.

Among the fifth grade classes in her school district, Mrs. Stangler's students showed some of the highest rates of improvement on test scores. We lost a great teacher because of how expensive post-secondary education is.

Not only that, even with her mom's sacrifice, Joelle, who is only in her second year of college, already has $12,000 in student loans. She estimates that her total debt will be around $30,000 by the time she graduates. Again, that is even with her mom leaving the job she loves, the job as a society we would want her to be in and that she is so great at.

At the roundtables I have around the State of Minnesota, I always hear about students working multiple jobs, sometimes even putting in 40 hours a week while going to school full time. Working and school is good. It is not bad necessarily. Some work can help students manage their time, become more productive, and of course help pay for college, but evidence shows that when a student starts to work more than 15 hours a week, it becomes harder for the student to maintain good grades in school and to graduate from school on time. Students are working more because college is becoming less and less affordable and they are still taking out more and more student loans and graduating with more and more debt, despite having worked while they were in school.

I do not think that is right. I do not think it is productive for our country. One student at the last roundtable I did told me: I can work 40 hours a week and have less debt or I can work 20 hours a week and be more involved in school. That is not the kind of choice students should have to face in America. I have talked to students who work full time while going to school and actually sell their blood every once in a while to help pay maybe their rent or their housing.

Recently, some encouraging things have happened in Minnesota. Thanks to the work of Gov. Mark Dayton and the State legislature, our State's public colleges and universities received an increase in funding from the State. Last year, after more than a decade of spending cuts to higher education and tuition increases in Minnesota, the State increased higher education funding for this academic year and next academic year by 10 percent, including a 15-percent increase in need-based State grants.

This much needed funding has allowed the public universities and colleges in Minnesota to hold their tuition steady, instead of passing on higher costs to Minnesota's students. This has been a significant victory for Minnesota students and families, but students are still facing daunting costs in paying for college and they are still graduating with far too much debt.

In the Senate I have been working on a number of solutions to the college affordability problem. I have two bipartisan bills with Senator CHUCK GRASSLEY of Iowa that would help students and families understand college costs and compare the costs of different colleges as they go through the process of selecting a school. Our Net Price Calculator Improvement Act makes these online tools more user friendly in order to give students and their families a better estimate of college costs before they decide where to apply to college.

Senator GRASSLEY and I have another bill that will require schools to use a universal financial aid letter. Right now these letters are incredibly confusing. They do often clearly indicate what is a grant and what is a loan. A lot of people do not think—they say ''award letters'' on them sometimes and they include loans. A lot of people do not consider a loan an award. They use different terminology. If you get a Stafford subsidized loan in one letter, it might say ''Stafford subsidized loan,'' this amount.

Another, it might have a code number, an X5382. When we put out this bill, I got all kinds of calls from college counselors and from high school counselors, saying thank you. Our bill would make sure students and their families and their counselors get clear and uniform information so they can make apples-to-apples comparisons between what the different schools are offering.

Another part of the college affordability problem which is often overlooked is the price of textbooks. Students in Minnesota are spending an average of $1,400 per year on textbooks, $200 more than the national average. One Minnesotan I have heard from, Kari Cooper at Bemidji State, has to choose between paying for her textbooks and paying her rent. She ends up putting her textbook costs on her credit card.

I introduced a bill with Senator DICK DURBIN of Illinois called the Affordable College Textbook Act that would address this problem. Our bill would expand the use of free, online, open-source college textbooks, which are a great alternative to the traditional expensive kind. This is a great way to reduce the overall cost of going to college.

College students such as Kari, Joelle, and countless others are working incredibly hard when they are still taking on significant amounts of debt. Part of the reason this debt will stay with them for a good portion of their lives is that they are paying such high interest rates.

Many college graduates are locked into loans with interest rates as high as 10 percent, which makes it all the more difficult to pay off your student loan. The last thing our students need is to be saddled with high interest rates on student loans that continue to burden them long after graduation. There is a clear commonsense solution. That solution is contained in the bill I am proud to have joined Senator WARREN in introducing, the Bank on Students Emergency Loan Refinancing Act.

Students and graduates should be able to take advantage of lower interest rates and refinance their loans. When interest rates are low, homeowners, businesses, and even local governments regularly refinance their debt. Yet despite being the biggest student lender by far, the Federal Government offers no refinancing options to student borrowers.

Once a person graduates, if they have a high interest rate on their student loans, they are stuck with that high interest rate forever. That is not right for our students and families and it is damaging to the long-term well-being of our country because it holds people back from making decisions that help drive economic growth: the decision to buy a home, to start a family, start a new business, to purchase big-ticket items such as a car.

Our new bill would allow students and graduates who have existing private and public student loan debt from

their undergraduate education to refinance these loans at less than 4 percent. Last summer we came together in Congress to prevent the interest rate on new student loans from doubling. Thanks to that effort, undergraduate students taking out new loans now have a rate of 3.86 percent. The bill we introduced yesterday would enable students and graduates who are saddled with higher interest rates on their undergraduate loans to refinance at the same 3.86 percent rate.

There are nearly 40 million Americans with outstanding student loans. Many of them face interest rates higher than 3.86 percent, some of them much higher. This legislation will give them a chance to cut down their debt and keep more of their hard-earned paychecks. It will help thousands of students in Minnesota who, similar to Joelle and Kari, are doing everything they can to get their college degree.

So many Minnesotans in schools across the State show tremendous perseverance and grit in getting a college education and in cobbling together the resources to pay for it. They should not end up with crushing debt and be unable to take advantage of lower interest rates to reduce that debt, when so many other kinds of debt—almost every other kind of debt you are able to refinance.

We have a lot to do and a long way to go to reduce student debt for our students and make college more affordable. Doing that will help more Americans find jobs to support their families, help more employers find qualified workers for their businesses, and help our economy prosper. Passing this bill will be one important step we can and we should take.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I applaud the efforts of Senator FRANKEN and Senators DURBIN and WARREN and JACK REED, who will speak after me, for their efforts on dealing with the terrible burden of debt that far too many young people in this country face. We know it is bad for them. We know this is a burdensome, onerous debt. We know it is bad for their families. In many cases, mothers and fathers cosign these loans and have to put off other kinds of things they want to and should do in their lives.

We know what it means to those families and to the economy and those communities where these students come out of college with huge debt. They cannot buy a car. They cannot buy a home. They cannot start a business. In many cases they put off getting married and starting a family because of debt. None of this is good.

Think back a generation. I heard Senator KLOBUCHAR speak today on the floor. She went to what we consider in this country an exclusive, very expensive university. She scrounged together, her teacher mother, her father—I was in the Presiding Officer's chair as she was speaking. Her father is a reporter, a journalist, columnist, as my wife is. He did not make a lot of money. It was difficult to come up with tuition, room and board for AMY KLOBUCHAR, a young 18-year-old student then, but they were able to do it. I looked back at my wife who graduated college 30-plus years ago, the daughter of a maintenance worker in a powerplant, a union member, 35 years in the union. She is the oldest of four. Her parents absolutely had a commitment to send her to college but could not afford it. Her mother took a job as a home care worker as Connie was approaching college age. She is the oldest. She went to a State university, Kent State University, one of the fine State universities in our State.

She graduated in 1979 with only about $1,200 in student loan debt. She worked part of that time, she got grants, but college tuition was so much less expensive then, not just at private, more elite schools but at State universities especially and community colleges. Now it is so out of reach for far too many families.

As the students approach that day and have these discussions with their parents, it is important to try to think through how these students who do not necessarily have a lot of sophistication yet in finances, how they look at this. A recent study found that two-thirds of student loan borrowers were not as aware of the difference between Federal student loans and riskier, higher interest private student loans.

So they go into this not necessarily always with eyes wide open. They are idealistic. They are enthusiastic about going off to school. They want to get ahead. They do not want to put too big a burden on their parents or obviously on themselves, but they are not, according to the study, aware of the differences between Federal student loans and these higher interest private student loans.

Many students then take out private student loans, even though they are eligible for the more affordable Federal ones. You can't expect students to have a fair shot at building a successful livelihood if we don't give them the tools to succeed. That is why the Know Before You Owe Private Student Loan Act is so important. The bill would require private student loan lenders to clearly state the difference between the student's ultimate cost of attending college and the student's estimated financial assistance.

They should be taking full advantage of any Federal financial aid packages they may qualify for before taking on any private student loan debt, although they so often don't know that because this is complicated.

Second, our bill would provide loan statements to borrowers and their families at least once every 3 months so they can understand what they are getting into. Also, it would require private student loan lenders to submit an annual report to the Consumer Financial Protection Bureau about student loans.

We know private student loans typically have significantly higher interest rates. They offer more limited payment options. They offer no relief for graduates who are underpaid, have been laid off or are unable to find work.

That is why my Refinancing Education Funding to Invest for the Future, or REFIF Act, addresses this problem by authorizing the Treasury Department to make the private student loan market more efficient. It would allow borrowers to refinance their more costly private loans into more affordable loans at no cost to taxpayers.

Now the Bank on Students Emergency Loan Refinancing Act would allow homeowners to refinance and lock in lower Federal interest rates. All of these pieces of legislation will give students a fair shot at the American dream of going to school—whether they choose to go to Lorain or Cincinnati State Technical and Community College, whether they want to go west to Otterbein, a private school in Ohio or Denison or Oberlin or whether they want to go to a larger State university such as Ohio State or usually Toledo or Youngstown State.

It would allow those with private student loans into the Federal program, saving hundreds and possibly thousands of dollars by switching to the lower Federal interest rates.

We all hear it. The Presiding Officer hears it from his Connecticut residents. Senator REED hears it from Rhode Island, and we will hear from people in our States pleading for help. Let me share a couple of them, and then I will yield the floor for Senator REED.

Kelly McVicker, a father of three in Toledo—I spoke with him on the phone and I talked to him. We went to Perrysburg High School, a suburb of Toledo—an affluent suburb—but still a place where students struggle with student loans and student debt.

When Kelly was 17, he took out a $48,000 student loan to get his degree. Today he is 31, working to pay down that original loan, which has now grown to $73,000, while also trying to support his family.

He took out a $48,000 loan. He has been working, he has been going to school, and he has been doing what people and what society asked of him, and yet he is now saddled with this $73,000 debt.

Andrea, from the same part of the State, the northeast corner of Ohio, wrote to me from Williams County saying:

> I have been repaying my student loan religiously for about 14 years, and I feel as though my payment never goes down.
>
> My interest rate is 7.75 percent. When I contact my lender, they have no offer to lower the rate.
>
> I find it hard to believe when my mortgage is 3.25 percent, and so is my auto loan. I can even get a credit card with zero percent interest.
>
> I would be better off defaulting and let the companies take care of it.

I am married with three children. At this rate, I will still be paying off school loans when my oldest goes to college.

I did not have the luxury of having financial help from my parents, and I am trying not to let that happen to my own children.

Higher education is extremely important to my husband and me, and as a middle class family, there doesn't seem to be much help in this area.

I am a frustrated person who seems to be indebted to student loans, and I don't want the same for my children.

All of these pleas, whether they come from Providence or whether they come from Cleveland, are from people who want to do the right thing. They want to get out from under these loans, but they want to pay them. They want to pay them back. They just want an interest rate that is more competitive when they see what their home mortgage interest rates are.

For Andrea from Williams County, her interest rates for her home mortgage are less than half of what she is paying for student loans. Why should that be? We need to respond to these pleas for help from so many of our constituents of all ages, of both genders, from all across our States in communities, small towns, big cities, and rural areas.

Across the country there are responsible borrowers who have played by the rules and are still finding themselves coming up short. Unless we act, we will have a generation of Americans unable to build a life for themselves because they are in a nonstop cycle of dealing with costly loan repayment.

It is important. We have the opportunity, by passing these bills, to give Americans the fair shot they need at paying off their loans, of going to school, of getting ahead, starting businesses, starting families, buying homes, and getting this economy back on track.

We can do this, and it is important we start today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I thank my colleagues Senator FRANKEN and Senator BROWN for their leadership and very wise comments on this issue, which is one of the most difficult ones that young Americans face, and that is paying for college and student loans.

As my colleague had indicated, this is just really the tip of the iceberg because these debts that they have accumulated will prevent them from buying homes, from starting families, and ultimately affects our economy in a tremendously disruptive way.

All of this is coming into very sharp focus as we begin the graduation season. We have high school seniors who are choosing a college to attend. We have college graduates who are leaving campus and facing a very difficult job market. Those who are going to college are looking at huge potential debt. Those who are leaving college already have, in most cases, those debts and are now thinking about how they can deal with them as they go forward.

Outstanding student loan debt today is at an estimated $1.2 trillion, and it is growing.

According to the Institute for College Access and Success, between 2008 and 2012, average student loan debt increased by an average of 6 percent per year—much, much faster than the rate of inflation. So we have an issue that is not only critical today, but it is getting worse each and every day.

Seventy percent of the class of 2012 graduated with student loans, and the average student debt was $29,400. That is a lot of money. With that debt and with a job that is paying modest wages, or in many cases not being able to find such a job, it is very difficult to pay those loans.

I just met with the presidents of all my colleges and universities in Rhode Island, and we talked about the urgency of this issue. Rhode Island ranked fifth in the Nation for average debt, with students owing an average of more than $31,000 when they graduate from college. We are fifth in the Nation.

We are also, I would like to point out, regretfully, first in the Nation in unemployment. We have the classic situation of Rhode Island graduates leaving with an average of $31,000 of debt and struggling in one of the toughest job markets in the United States to find work. That is a very difficult combination to bear; that is so for so many young people not only in Rhode Island but in Ohio, Massachusetts, and people across this country.

This debt is a huge drag on our economy. It is a threat to our future.

We have to take action. We just can't sit back and watch this get worse each day as it is.

First, we must commit to lowering costs for low- and middle-income families. The Pell grant is the foundation for making college affordable.

It is the work of my distinguished predecessor, Senator Claiborne Pell, who understood that if you could make college affordable for talented Americans, they could remake this country and the world. For decades we did that. We provided the kinds of resources and grants that allowed talented, but not wealthy, students to go to school, to leave school without huge debts, and to begin immediately to apply their talents to the issues that confronted this country and this world.

In fact, I would argue that his foresight back in the 1960s and 70s set the stage for all of these great sorts of revolutions.

Why did we have a telecommunications revolution? Because we had not only the educated scientists and engineers to develop transistors, to develop all of these new technologies, but we also had the most educated population in the world to use them.

That wasn't an accident. That was building on the GI bill in the 1940s, with the Higher Education Act in the 1960s, adding the Pell grant in the 1970s, to make college affordable and accessible to the widest section of Americans.

That has been the engine that has driven our growth and our economic progress over many decades. That engine is sputtering right now because of the debt that is being put on these students because the cost of college is going up.

We certainly have to reject the proposal in the House by some of our Republican colleagues that would roll back investment in the Pell grant. We have to do more to make the Pell grant accessible to more citizens, more Americans.

Second, we have to tackle this student loan debt crisis.

The Federal Government should not be generating revenue from student loan interest payments. Instead, we should be offering lower rates. That is why I introduced the Responsible Student Loan Solutions Act to set interest rates to cover our costs and nothing more, and allow for refinancing of loans that are at high fixed rates.

I was pleased to work with Senator WARREN of Massachusetts, who is an extraordinary leader on this issue, to develop a new student loan refinancing bill that would enable student loan borrowers to refinance at the rate that was enacted under the Bipartisan Student Loan Certainty Act last year.

We also have to hold loan servicers accountable for treating borrowers fairly. Students must get accurate and clear information about their repayment options, and that is why Senator DURBIN's Borrowers' Bill of Rights Act is so critically important. I am proud that he has joined us on the floor, and I am very proud to be a cosponsor of this legislation.

Third, States, colleges, and universities have to step up. They have to do more to provide the resources, to provide the efficiencies, so that we can make college more affordable for all of our citizens.

I have introduced the Partnerships for Affordability and Student Success Act to reinvigorate the Federal-State partnership for higher education with an emphasis on need-based grant aid.

One of the problems we have, frankly, is that in the 1970s, if you looked at the Pell grant, it would cover roughly three quarters of tuition at a public four-year university. Now it covers only about one-third of tuition for those who can get the grant.

If we could go back to those times where you could basically get—if you were a low-income deserving student—a grant, we wouldn't have such a crisis in student debt. So we have to make grant aid more accessible, and that requires a State, Federal, university, and college partnership. A recent report presented at the American Educational Research Association found that grant aid increased the likelihood of graduation for low-income students while unsubsidized student loans resulted in a decrease in graduation rates.

If we are worried about graduating young people from college, the one

thing we can do is take the worry of debt off their shoulders, take the uncertainty of trying to put together, cobble together, financing for education by giving them the grants that used to be something we thought were part and parcel of the American dream.

We also know that one of the main reasons tuition has skyrocketed is that State appropriations for higher education have declined. According to the State Higher Education Finance report, State spending per full-time equivalent students reached its lowest point in 25 years in 2011.

States do have to put more into their State and university college systems. I say that knowing full well the challenges the States face, some of which are the result of policies and guidance that we have given them. But if the States are not willing to put more resources in, it ultimately is shifted on to the shoulders of students, and ultimately there is only so much weight they can bear.

States have to reinvest in higher education, and we can help give them incentives to do that, rather than disincentives. I hope our legislation will do that.

Finally, colleges and universities must take greater responsibility for affordability and student loan debt. This is not something that is beyond their prerogatives. They are not helpless in this. They have to not only advise students on the best course of action—in fact, in my view, colleges, public, private, for profit, nonprofit, should be fiduciaries, really. They should operate in the best interests of students, not the best interest of the bottom line, not to make up for lost State contributions, not to sign up for esoteric deals with financial companies because they get a huge payment back in return.

Just as in the classroom, they should be trying to give these students the best education. In the financial aid office they should be giving them the best deal possible on paying for college.

To ensure that, to basically make sure that all of these institutions have some, as they say, skin in the game, I introduced the Protect Student Borrowers Act with Senators DURBIN and WARREN. I must say this is also the result of some hard lessons we learned in the financial crisis. If institutions don't have an interest in the loans they are making—in fact, if they are encouraging people to take loans they cannot afford—disaster is just days, months, weeks away. It is coming. We want them to be more responsible. So we would ask them, as the percentage of their students who default rises, that these institutions start sharing some of the risk; that they start being conscious of the arrangements they are giving, the tuition they are charging, the courses they are offering; that they have a vested interest in their students succeeding, and not the institution getting as much money as possible.

I know there are other colleagues on the floor, and I have more to say about this, but we have a great deal of work to do here. This is about a fair shot for all of our students and all of our families. Working with Senator WARREN and Senator DURBIN and my other colleagues, we are going to try to make a difference for students across this land.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I want to thank my colleague from Rhode Island, Senator REED. Senator ELIZABETH WARREN, our new colleague from Massachusetts, and Senator REED and I have started this effort, but we are welcoming ideas and supporters from both sides of the aisle to join us.

The conversation tonight on the floor of the Senate may be the most important conversation that millions of American families could hear, because we are talking about student debt. Student debt in this country has reached the breaking point. It has reached the point where the cover of Time magazine would have a question mark. It shows a student headed off to college and the comment of the question mark is, Is It Worth It?

It has reached the point where the cost of higher education is so high, the indebtedness associated with it so high, that many are stepping back now to ask that very basic question: Is it worth it, to go this deeply in debt for college courses—an associate's degree, a bachelor's degree, or more? That question would have been unthinkable in my day—unthinkable. If there was one driving idea in my mind from my mother and father, it was stay in school, go to college, do the best you can and don't quit, keep working at it. Thank goodness, for me—thank goodness, for me—the Soviet Union decided to launch Sputnik. That was the biggest break I ever got in my life and I didn't even realize it.

It was October 1957. They launched this basketball-sized satellite that circled the globe. We didn't have any rockets or satellites at the time, and this satellite, as it circled the globe, let off this beep and signaled it was out there. You couldn't hear that beep on Earth with the ordinary powers of individuals—some scientist could pick up that signal—but they heard that beep on the floor of the Senate. What happened is Members of the Senate came in here—Democrats and Republicans—scared to death. We knew Russia had the bomb and now they had satellites.

We did a lot of work. We started preparing our Department of Defense to get ready; something may be coming our way. Then something happened which was nothing short of amazing. Somebody said: If we are going to beat the Russians, if we are going to beat the Soviets, we are going to need an awful lot of educated people, and so they came up with an idea. It was the first time in history the Federal Government had ever conceived of an idea of loaning money to college students to go to school, unless you were a veteran, with the GI bill. You didn't have to be a veteran. They would loan money to students to go to college, and they called it the National Defense Education Act. Sounds right, doesn't it? If we are going to defend America, we need education. So we will loan money to students all across America to go to college.

What that did was to completely destroy the stereotypes of colleges and universities, which used to be for the very brightest and the sons and daughters of graduates. In the 1960s, after the National Defense Education Act, higher education was democratized and a young high school student from East St. Louis, IL, walked into the admissions office at Georgetown University and went to school with a National Defense Education Act loan from my Federal Government.

I didn't borrow much money because it didn't cost much money, though it seemed like a lot at the time. The deal was you borrowed it, and then, in the 10 years after you graduated—you got 1 year grace period—you paid it off in 10 installments with 3 percent interest, which I did. I borrowed money for college and law school. Did I know whether that was a good idea to go in debt for college? I didn't, other than the fact I had been told over and over and over the best thing you can do with your life is to go to college.

Fast forward 50 years. Fast forward from that experience in my youth to today. Imagine a student with the same motivation for college is sitting in an admissions office and, instead of being told they may have to borrow $500 or $1,000, they are told they may have to borrow $20,000 to go to school 1 year. Imagine a 19-year-old student making a decision about being $20,000 in debt. How in the world can they make that decision? They are still motivated, they want that college education, and so they basically say: I will sign up. The admissions officer has said classes start next week. If you sign these papers you will be in there. If you don't sign the papers, you won't be. So students are signing up.

All across America, the indebtedness these students, and many times their parents, are incurring is building up to record levels. There is more student loan debt in America than credit card debt. There are tragic stories emerging from it—stories of students deeply in debt, dropping out of school with no degree; stories of students deeply in debt finishing school unable to find a job; and stories of students deeply in debt going to semiworthless, for-profit schools with diplomas not worth the paper they are written on.

What happens at the end of the day? The debt of these students is not like any other debt. Luckily, we have as a colleague in the Senate Senator ELIZABETH WARREN, who once taught the bankruptcy course at Harvard Law School, so she can help correct me if I am wrong—at least fill in some blanks

for me here. Currently, if someone declares bankruptcy in America today, there are some debts you cannot discharge. I am going to try to remember a few of them; she can help me with the others.

You cannot discharge taxes owed to the government. You still have to pay that. You cannot discharge money you owe for alimony and child support, if I am not mistaken.

I don't know if there is another category, but I am going to add student loans here, and I yield to my colleague, with the permission of the Chair. Did I get an A on that or at least a B?

Ms. WARREN. The Senator got an A.

Mr. DURBIN. All right. So the fourth category is student loans. If you end up in debt with a student loan, it is one of the few loans in your life you can't discharge in bankruptcy. The money you borrowed for your home, yes, that is dischargeable; the money you borrowed for your car, yes, that is dischargeable; the money your borrowed for a boat, yes, that is dischargeable; the credit line you have just for your ordinary expenses, yes, that is dischargeable; but when it comes down to student loans, it is a debt you carry to the grave. You either pay it or they will hound you for as long as you live.

That is why it is different than other debts. That is why we came together and said it is time for us to look at these student loans, the amount of debt which students and families are carrying, and do something about it.

Three bills emerged. The first bill I call the student borrower bill of rights. It says when you sit down at that desk in the admissions office they have to tell you what your rights are. They have to tell you the government loan you could use to pay for your education has a lower interest rate, more reasonable terms, can be consolidated at a later point in your life, a limitation on how much money out-of-pocket you are going to have to pay based on your income, and you might have some forgiveness if you go into some areas such as teaching and nursing. You have to be told this.

Right now, students sitting across from that admissions officer are being steered into the most expensive, worst loans. So the bill I have offered—the student loan borrower bill of rights—says, first, tell them the truth. Tell them the best circumstances for them to borrow money, if they need to borrow it.

Secondly, the bill of JACK REED of Rhode Island basically says that a university has a vested interest in making sure a student doesn't borrow too darned much money; that a student doesn't get so deeply in debt they can never pay it back. That university, if they do not accept that responsibility, could be on the line themselves for some of that debt.

Think they will take it a little more seriously? You bet they will. That is the Reed bill, which I am cosponsoring.

To discuss the third bill, I wish to defer to the Senator from Massachusetts, with the permission of the Chair. It is the one that is a really critical element in this approach to dealing with student loans and student debt. With the permission of the Chair, I ask to enter into a dialogue with the Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I want to, at this point, yield to the Senator from Massachusetts to describe for the RECORD her refinancing proposal.

Ms. WARREN. I thank the Senator from Illinois.

It starts with the premise right where the Senator was, and that is the Federal Government, once upon a time, lent money to our students. My colleague remembers the NDEA loans that went out at 3 percent. The Federal Government was subsidizing those loans, making it easier for students to be able to borrow.

Where we have ended up today is that instead of there, we have students with outstanding student loan debt at 6 percent, at 7 percent, at 8 percent, at 9 percent, and even higher. So this isn't just to cover the cost of the loans. This is double, in some cases, what it takes, triple, in some cases, what it takes to cover the cost of the loans. That means the administrative costs, the bad debt costs—the costs of borrowing the money.

So last summer, we were looking at new student loans that were coming through—the interest rates were about to double—and Congress, Democrats and Republicans, said if the interest rate doubles up to 7 percent, that is too high. So Congress said that for all new borrowers in 2013, the interest rate would be 3.86 percent on undergraduate loans, 5.41 percent on graduate loans, and 6.41 percent for PLUS loans. Make no mistake, the government still makes money—not a lot but the government still makes money on those loans.

What we propose is to take all of the outstanding student loan debt and refinance it at those interest rates—exactly the same rates that virtually every Republican agreed to last summer, many Democrats agreed to last summer, and to say we are going to finance it down. So kids who are trapped in loans at 8 percent, at 9 percent, and even higher will be able to get these lower interest rates on their loans. It will save some people hundreds of dollars a year, it will save some thousands of dollars a year.

We propose to pay for that by enacting the Buffet rule—closing some tax loopholes on millionaires and billionaires—so we can bring down the interest rate for our students.

Mr. DURBIN. I thank the Senator from Massachusetts, and I see the majority leader is on the floor, so I will close with this:

These three proposals—students being admitted to college should be told the truth about their debt and the best way to minimize their debt; that the colleges will not loan more money than is reasonable or be on the hook themselves, if they do; and that students have an opportunity to refinance their student loans—would have a dynamic impact on student debt in America today and give working families and students a fair shot at a higher education they can afford without a debt that would cripple them for life.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

## UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding rule XXII, on Thursday, May 8, 2014, at 11:15 a.m., the Senate proceed to vote on cloture on Calendar No. 655, the Talwani nomination; Calendar No. 656, Peterson; Calendar No. 657, Rosenstengel, then proceed to consideration and vote on confirmation of Calendar No. 526, Hamamoto; further, that if cloture is invoked on Calendar Nos. 655, 656, or 657, all postcloture time be considered expired and at 1:45 p.m. tomorrow afternoon, the Senate proceed to vote on confirmation of the nominations in the order listed; further, that following disposition of Calendar No. 657, Rosenstengel, the Senate proceed to vote on Calendar No. 690, Rosenbaum, and proceed to consideration and vote on confirmation of Calendar No. 615, Mitchell, and that if cloture is invoked on Calendar No. 690, all postcloture time be considered expired and on Monday, May 12, 2014, at 5:30 p.m., the Senate proceed to vote on confirmation of Calendar No. 690, Rosenbaum; further, that upon disposition of Calendar No. 690, the Senate proceed to the consideration and vote on confirmation of Calendar No. 560, Croley; further, that there be 2 minutes for debate prior to each vote, equally divided in the usual form; that any rollcall votes, following the first in the series, be 10 minutes in length; further, that if confirmed, the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to the nominations; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. President, tomorrow there will be about four rollcall votes in the morning beginning at 11:15 and as many as five rollcall votes beginning at 1:45 tomorrow afternoon.

The PRESIDING OFFICER. The Senator from Connecticut.

## STUDENT LOAN DEBT

Mr. MURPHY. Mr. President, I wish to very briefly join my colleagues here

in support of the effort being led by Senator DURBIN, Senator WARREN, Senator REID, and Senator HARKIN. They have done such incredible work on behalf of students all across the country.

One of the most amazing statistics to me is a simple one. Not so long ago the United States was No. 1 in the world when it came to the number of young people who had college degrees. In a very short amount of time, we have precipitously fallen from No. 1 to No. 12 due to the fact that other countries have caught up, which is an issue in and of itself, but it also has something to do with the fact that the cost of college has become calamitous for students all across this country, and it is taking kids a lot longer to complete their degrees—many of whom are starting and never even finishing.

I am an example of the squeeze that American families are in. I don't complain about the income my wife and I make, but we are both paying back our student loans and we are saving for our kids' student loans. So I know the amount of a family's income that can be gobbled up trying to pay back prior college and save for future college, and I know where that money would go if it weren't going to pay for those two costs. For us, that money would go into the local economy.

So this is the middle-class issue of our generation, as my colleague Senator SCHATZ often says, because it is not just about families trying to pay back college and save for college; it is also about all of the places that money could go if it weren't going to the banks and the Federal Government, which are making a pretty profit off of this system as it is.

Finally, I will make a pitch for a piece of legislation that Senator SCHATZ, myself, and Senators MURRAY and SANDERS have introduced because I think we need to have two conversations. One is about making sure we reduce the financial burden for families, but there is also a conversation we need to have about putting pressure on schools to reduce the ticket price, the sticker price of attending college. We, frankly, haven't done a very good job of leveraging the $140 billion we spend on financial aid to pressure colleges to do the right thing.

There is one for-profit college in California that takes in 1.6 billion every year of taxpayer dollars, and the average student there spends only 3 months on campus because they start school and never finish it. Their loan default rates are above 30 percent. That is a terrible investment for those kids but also for the Federal taxpayers' dollars.

Our piece of legislation—which we hope will be considered in the broader reauthorization of higher education statutes in this country—would say it is time we hold colleges to a different standard and force them to get serious about costs and quality. In the end, that will be just as helpful—keeping control of quality and cost at our colleges—as the effort being led by so many of my colleagues on the floor here tonight.

I am very glad to join in this effort. It is a personal cause for me and my family given that we are living this reality today but one that is a much greater imperative for all families who have been struggling with this burden across the State the Presiding Officer and I represent.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I am going to be very brief, and I will come back tomorrow to speak at greater length.

One of the things Americans know is that college is becoming more of a necessity and is getting to be priced like more of a luxury. We can't have that. When college is a ticket to success—not just income success but even recent surveys show longevity and happiness—it is a crying shame when any American deserves to go to college but doesn't go or doesn't go to the right college because he or she can't afford it. We aim to change that in a variety of ways, but the one Senator WARREN has talked about and taken the lead on is in terms of refinancing.

It is absolutely outrageous that students who got out of college in the last 5 to 20 years are paying 8 percent, 9 percent, and up to 13 percent in interest. If they took out a loan today, they would pay 3 percent or 4 percent. This puts huge burdens on their shoulders in their prime earning years and their family-forming years. It crimps the housing market because if you have $30,000 in student loans, you are not likely to take out a $100,000 mortgage.

So all we are asking for is a fair shot. If you deserve to go to college, you should have a fair shot at affording college. And if you have gone to college, you should have a fair shot at being able to pay your debts and live a decent life. It is very simple.

We Democrats are focusing our attention on what the average American needs, giving the average American a fair shot. And there is probably no place where that fair shot is less attainable than in college affordability and in acquired student loan debt.

I hope people will listen to us in the next several weeks. I hope my colleagues on the other side of the aisle—unlike on minimum wage or equal pay—will join us in coming up with a bipartisan proposal. I hope we can do something for these students—those who have already gone to college and are paying disproportionate interest and those who are going to college and need to afford it. Everyone deserves a fair shot in America, and they certainly deserve a fair shot, if they have earned a place in college, to afford that place in college.

I look forward to continuing this discussion and debate in the next several weeks to come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Ms. WARREN. Mr. President, I commend the Senator from New York and all of my colleagues who have been here.

Forty million borrowers in this country have student loan debt. Student loan debt is exploding, and it threatens the financial stability of our young people and the financial stability of this country.

I am pleased to see so many of my colleagues here tonight talking about this problem because, make no mistake, this is an emergency. Outstanding student loans now total more than $1.2 trillion, and millions of young people are struggling to keep up with their payments.

It doesn't have to be this way. Congress set artificially high interest rates on old student loans which generate extra money for the government. The GAO recently projected that the government will bring in $66 billion on just the slice of student loans issued between 2007 and 2012. Those are the kinds of profits that would make a Fortune 500 CEO proud.

These young people didn't go to the mall and run up charges on a credit card. They worked hard and they learned new skills that will benefit this country and help us build a stronger America. They deserve a fair shot at an affordable education, and we can give them immediate relief by cutting the interest rate on existing student loans. We should cut those interest rates and cut those government profits.

Yesterday I joined with 27 of my colleagues to introduce the Bank on Students Emergency Loan Refinancing Act, which will do just that. The idea is simple. With interest rates near historic lows, businesses, homeowners, and even local governments have refinanced their debts. But a graduate who took out an unsubsidized loan before July 1 of last year is locked in to an interest rate of nearly 7 percent. Older loans run 8 percent, 9 percent, and even higher. We need to bring those rates down, and we need to do it now.

Bank on Students would allow student loan borrowers the opportunity to lower their interest rates on old loans to match the rates the government offers to new borrowers—3.86 percent on undergraduate loans, 5.41 percent for graduate loans, and 6.41 percent for PLUS loans.

I wish to be clear. These rates are still higher than what it costs the government to run its student loan program. Our work will not be done until we have eliminated all of the Federal profits on these loans. But this legislation is an important step in that direction, and it is a step both Republicans and Democrats should support.

Last year nearly every Republican in Congress—in the House and the Senate—voted for the exact same loan rates in this legislation. If Republicans believe that 3.86 percent is good enough for new undergraduate borrowers, then

it should be good enough for all existing undergraduate borrowers. There is no reason on Earth to say some kids can get a better deal than others when they all worked hard to do exactly what we wanted them to do—get an education.

This legislation won't add a single dime to our deficit. The Bank on Students legislation adopts the Buffett rule, which limits tax loopholes for millionaires and billionaires. Every dollar we bring in as a result of that change will go directly to supporting lower interest rates on existing student loans.

We only introduced this bill yesterday, but we are already getting a great response. Think tanks such as Demos, student groups such as Young Invincibles, teacher groups such as the American Federation of Teachers and the National Education Association have all come forward and endorsed this proposal. Letters and emails and phone calls are already pouring in. I am also encouraged by the fact that some Republicans have also come forward to say they are open to considering a refinancing proposal.

I want to be clear. This should not be a partisan issue. I am eager to work with any of my colleagues who believe we need to do something about the growing student debt crisis. If the Republicans have issues with this proposal, if they want to suggest different offsets or policy changes, they should bring their ideas forward. What we can't do is continue to ignore this problem and hope it will go away on its own.

Congress made this mess by setting artificially high interest rates that are crushing our kids. It is Congress's responsibility to clean it up.

I don't kid myself. Refinancing will not fix everything broken in the higher education system. But the need for comprehensive reform must not blind us to the urgency of addressing the massive debt that is already crushing our young people.

This is personal for me. I grew up in an America that made it a priority to invest in its young people and the opportunity to go to college. An affordable college and affordable loans opened a million doors for me. I will keep fighting to make sure every kid who works hard and plays by the rules gets a fair shot.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. HEINRICH). The Senator from Connecticut.

## HONORING LORI GELLATLY

Mr. BLUMENTHAL. Mr. President, I am tremendously honored to follow my colleague from Massachusetts, Senator WARREN, who has so zealously and thoughtfully developed a program that deals with the breaking, calamitous burden of student debt which affects so many of our young people across this country, including my State of Connecticut, and I thank her for her great work.

I wish to talk about that issue following the very eloquent remarks of my colleagues, Senators DURBIN, REID, BROWN, as well as SCHUMER and Senator WARREN, to be followed by Senator BALDWIN. But first I wish to take a moment or two to express my deepest condolences for the family of Lori Gellatly, who was shot and killed today in Oxford, CT. This tragedy is not only saddening but shocking because Lori is dead and her mother is seriously wounded and in very dire condition. They were shot by her estranged husband who was under an ex parte restraining order from a judge and who is suspected. All we have right now are allegations of his committing this atrocious crime. My heart goes out to their family and to their children. She left two children behind.

There will be time to talk about the lessons we can learn from domestic violence like this shocking infamy. In her application for the restraining order she described a violent altercation with her estranged husband which made her ''afraid for her kids and herself.'' She was granted an ex parte order but it was only temporary. A hearing to consider a permanent restraining order was scheduled to take place literally tomorrow. Connecticut law prohibits anybody who is the subject of a full 1-year restraining order from possessing a firearm. Federal law has applications as well to individuals under a permanent restraining order, but this prohibition does not extend under Connecticut law to an individual who is subject to an ex parte order.

I recently met with Representative Gabby Giffords to discuss the nexus and close connection between the issue of domestic violence and gun violence. Together with my colleagues Senators MURPHY and DURBIN we discussed this problem and potential remedies. In this calendar year alone five other homicides have taken place stemming from intimate partner violence in Connecticut alone. So the issue of temporary restraining orders is an even more acute aspect of this problem. According to the Domestic Violence Intervention Program, women in abusive relationships are more than 7 times more likely to be killed by an intimate partner after 2 weeks of leaving the relationship than at any other time. We ought to do much more to protect victims of domestic violence during this extremely vulnerable time—indeed a time when they are most vulnerable.

While we will have time in the future to discuss this tragedy, right now my heart, my prayers, and my family's thoughts go out to Mary Jackson, Lori's mom, as well as Lori's two children and all of the family, and my thoughts and prayers are with them.

## STUDENT DEBT

Mr. BLUMENTHAL. Mr. President, I would like to proceed with remarks on the student debt and loan issue, and I will be brief because I know it is late. There have been some very remarkable and eloquent remarks and personal stories about the meaning of college education.

My dad came to this country in 1955 at the age of 17 without even a high school degree. He never had one. He spoke very little or no English and had virtually nothing more than the shirt on his back and knew no one. Throughout his life one of his highest aspirations was for his children, my brother and me, to have a college education. He valued it almost more than anything else that he could hope for us to have. It was part of his dream. For him and countless immigrants and countless working men and women born in this country for decades, a college education has been part of the American dream, part of the fair shot that every American should have, an economic opportunity at self-fulfillment and developing their full potential because that is what education helps us to do. That is the reason why Americans are going into debt at unprecedented levels, because they believe in that American dream and the fair shot that it gives people through opportunity in this greatest Nation in the history of the world. It is part of our DNA as Americans that we aspire to educate and fulfill all of our potential, which benefits not only us but the whole country and all of our society.

The average level of debt in Connecticut is about $27,000—calamitously bad not only for those individuals but also for our Nation. For the individuals it means that financially crippling burden stops them from marrying at the time they wish, having children when they might like, starting businesses, buying homes, and moving forward with their lives. Who can start a small business with tens of thousands of dollars of debt? Risk taking is constrained and straitjacketed. People's personal lives are affected and changed forever.

Student debt today has increased concurrently to approximately $1.2 trillion in this country. What we are doing in this proposal by providing a fair shot to those folks who have debt now and those who will incur it in the future is simply enabling them to do what people are able to do with other kinds of debt, whether it is their homes or their cars—to refinance so that they get the benefit of lower interest rates so they avoid that financially crippling burden saddling their lives so that they are able to buy homes, start families, and begin businesses in ways that benefit them and everyone in our society.

There is another dark side of this conversation which is that the American government profits off the backs of students who have incurred debt and who are beginning their lives in debt right now. In fact, the United States profits from these loans even at 3.86 percent. So the stark crass fact is that even with this relief that we are suggesting and proposing and agitating to

give to these students who have debt now, graduates that are out there with debt with 8, 10, some 11 or 12 percent interest rates, the U.S. Government will still make money from those loans—less money but the loans are still profit-making.

We should regard higher education as an investment in the future and not a revenue source or profit source. We should regard students as an investment—a personnel investment, a human resources investment, to put it again in crass business terms—that will pay off for years, not as immediate profit centers. That kind of wise investment looks beyond this quarter or next quarter. It looks to the human revenue in quality of life and contributions and new inventions that will change our lives for the better, in a more productive workplace that will make our companies more successful and profitable.

I hear from people all around the State of Connecticut. I got a stirring and moving email today from Bob in Naugatuck who told me his granddaughter has a student loan that he has cosigned and therefore he is potentially liable for it. Dean told me about his master's degree and that he is $55,000 in debt, struggling to support his family with his wife. Between them they have four jobs.

Alese, a mother of three, went back to school when her children were young because she ''wanted to make sure they had an example to follow when they finished high school.'' She is now $46,000 in debt.

As much as our economy is recovering, these folks are in danger of being left behind.

There are other measures that we should adopt, such as the uniform forms for college costs that will fully inform people about what debt they are incurring, the Pell grant expansion, the bills mentioned for net price calculated, and expanding other types of grants. We should take a step forward to provide a fair shot for all Americans in this measure that enables refinancing of loans that otherwise will crush our human potential and leave us poorer as a Nation.

I thank the Chair, and I yield the floor for my distinguished colleague from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Ms. BALDWIN. Mr. President, I rise today to speak about a growing crisis in our Nation that threatens our economy and the future strength of our country. A college education should be a path to the middle class, not a path to indebtedness. But today America carries the burden of $1.2 trillion in student loan debt.

In my home State of Wisconsin almost 70 percent of the students graduating from 4-year institutions will have student loan debt, and the average debt amount will be $28,000. This is real money. This is real money that isn't going into growing our economy at a time when we desperately need economic growth. This is real money that isn't going towards buying a student's or graduate's first car or first home.

The total amount of student debt in the United States has tripled in the last decade, from $363 billion in the year 2005 to over $1 trillion today. At the same time Federal financial support for students has not kept up with the need. The Pell Grant once covered $7 out of every $10. Today it covers $3 out of every $10 in college costs. In addition many States have scaled back their investments in higher education. The fact is that State investment in higher education has declined significantly over past decades, which has exacerbated the problem, particularly as States struggle to balance their budgets in these tough economic times. Their investments in students have decreased, meaning higher tuition, fewer grants, and fewer scholarships.

I heard from Wisconsin students that the cost of a higher education in my State puts college out of reach for too many. Thirty years ago undergraduate tuition at the University of Wisconsin-Madison campus was about $1,000. Today it is well over $8,000, and it is not just in my home State of Wisconsin. Across the country tuition at public 4-year colleges has tripled. This all means that more students are borrowing through Federal student loan programs to cover the high cost of a higher education. For students in the University of Wisconsin system, unmet need after grants and scholarships is over $9,000, nearly doubling in the last decade. Yet the Federal Government limits on subsidized loans have remained relatively stagnant over those same 30 years. In many cases the limit on what a student can borrow through the Stafford Loan Program means their loans will not even cover the cost of tuition, let alone other significant college expenses. The promise of a higher education has instead become a burden that has fallen squarely on the shoulders of students and their families.

Today, reflecting the trend of shifting costs onto students, 44 percent of college operating expenses are paid through tuition. Nationwide, 49 States, including my home State of Wisconsin, are spending less on higher education than they did before the great recession. Wisconsin has seen a 20-percent decline in State spending on higher education since 2008 while instate tuition has increased by almost 6 percent over the same time period.

It has not always been this way, and we seem to have lost touch with the American idea of building a path to the middle class by making a strong investment in higher education and giving Americans a fair shot at upward mobility.

In 1944, starting with the compact to returning soldiers from World War II made through the GI bill, our Nation made a commitment to future progress by investing in education. Between 1944 and 1951, 8 million veterans received education benefits, including many former distinguished Members of this body.

In 1958 President Dwight Eisenhower, a Republican, signed the National Defense Education Act, providing loans for college students and funds to encourage young people to enter teaching careers—the precursor to our current program for student loans.

President Lyndon Johnson built upon this legacy. A cornerstone of the Great Society was a path to the middle class through a college education. The Higher Education Act of 1965 gave us the Federal Student Loan Program, known today as the Stafford Loan Program, and the Educational Opportunity Grant Program, known today as the Pell Grant Program. This generation of Americans and lawmakers lived in trying times. Yet they still had the foresight to make the hard choices, the choices necessary to invest in the future—our future.

Throughout our Nation's history, the Federal Government has made major investments in expanding access to higher education for all people willing to work hard to pursue their dreams. Unfortunately, in recent years we have neglected that proud legacy.

Recently, Congress lowered interest rates for new borrowers but not for those borrowers who are stuck paying back old loans with much higher interest rates, be they public or private. Further, for those who are in true financial distress, Congress has made discharging loans in bankruptcy nearly impossible, first by eliminating this option for Federal loans in 1995 and then for private loans as well in 2005.

Tonight we are giving a voice to the debt crisis that faces millions of American families and students. Tonight we are giving voice to a number of solutions that can address this crisis if we work across party lines.

I believe Congress must take action, and that is why I am proud to join my fellow freshman colleague Senator WARREN as a cosponsor in support of the Bank on Students Emergency Loan Refinancing Act. This legislation would allow those with outstanding student loan debt to refinance their debt at the lower rates currently offered to new borrowers. It is simple. It is paid for by making millionaires and billionaires pay their fair share in taxes to give our students a fair shot at a bright future, and it will help strengthen the economic security of American families who are struggling with this debt.

I believe making college affordable is one of the most important steps we can take toward rebuilding our middle class and breathing new life into the American dream. I want to live in an America where everyone has a fair shot at getting ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BOOKER. Mr. President, it is an honor to stand here with a chorus of my colleagues speaking about an issue that goes to the core of the idea of this country; that is, every generation will be better than the one before. It is the idea that in this Nation we should lead globally in enriching the lives of our citizenry.

The Presiding Officer and I talked a few seconds ago. He said he was going home after this to put his kids to bed. I hope the Presiding Officer doesn't mind me sharing that. I know the Presiding Officer is going to teach his kids the same thing my parents taught me: Work hard and play by the rules so you can go to college and try to achieve your dreams.

When I have traveled all over the State of New Jersey—North Jersey and South Jersey, from urban towns to suburban towns and even rural towns—I have heard the same kind of frustration, which is the rising costs of college. Not only that, I see more and more people who try to take on the challenge of paying for those rising costs and find themselves saddled with staggering debt. The facts reflect the sentiments, frustrations, concerns, and anguish that I hear.

Today the average student graduates from college with around $29,000 in loans. That is up from an average of $27,600 in 2011 and $23,792 in 2010. In fact, right now in New Jersey 16 percent of my constituents are carrying student debt. That is over 1 million New Jerseyans who are weighed down by this significant financial obligation.

Let me put this in perspective because it has a ripple effect within our economy. Take, for example, our housing. Housing is such an important driver to economic development, and it is an important driver to jobs. Owning a home is a dream many people in America have as well. Well, the reduced purchasing power due to high student debt levels is holding back people's ability to help drive our economy forward.

The housing industry, which is still recovering from a crisis, is an example. The National Association of Realtors cited student loan debt as a primary reason for the decline in housing purchases among first-time buyers. Of 20 percent of first-time buyers who find it difficult to save for a downpayment, 54 percent of first-time buyers said student loans make it tough to save money. According to a recent survey by the National Association of Realtors, about half of all the people polled in a survey said student debt was a huge obstacle to buying a home. According to the Federal Reserve of New York, from 2009 to 2012 home ownership rates fell twice as much for 30-year-olds who had a history of student loans than it did for those who don't.

This is a problem which is impacting families, and it is stifling people's ability to participate and make our economy robust. It is making job growth a challenge. It has many different layers.

What I want to focus on for the last few moments is my desire to keep America No. 1. When it comes to educating our populous, we should be and have been historically top in the globe, especially at the higher education levels. When we created programs that many of my colleagues have cited—I heard Senator DURBIN speak about programs that literally took him from a lower middle-class environment to achieving his dreams. Accessing affordable college loans allowed him to achieve his dreams. We created these programs because we understood that the workforce in this Nation is essential for economic competitiveness. Indeed, in a global knowledge-based economy, it is the knowledge of the people that drives the economy forward. Without highly skilled workers, America simply won't be able to compete in this new global economy. This wisdom has been understood for decades, for generations. You educate your workforce to the highest levels on the globe, and your economy will lead the globe.

Well, today we are seeing challenges, and we are seeing this reality change. Today the average price of a college degree in the United States has climbed to $13,856. Compare that with some of our critical global competitors. Take the UK, for example. In the UK, the average cost is $5,288 for a higher education. Take Germany, another one of our global competitors. German students pay a mere $933. Those competitive economies understand that they don't want to put up barriers so their young people can learn. They want to remove them.

The cost of college in America puts our young people at a severe disadvantage compared to their peers around the world. It is not a level playing field. We are asking our kids to compete globally, but we are putting up barriers that are unique to this economy.

When the cost of college in the United States is now more than 51 percent of the median income in America—let me say that one more time. The cost of college in America is now 51 percent of the median income in America, while the cost of college in Germany is just 4.3 percent of that country's median income. When the United States has one of the highest percentages of adults—we are one of the top in the globe for adults 55 to 64. That generation of Americans which had the kinds of student loan programs and opportunities Senator DURBIN talked about are at the top, but only 43 percent of Americans ages 25 to 34 have a degree. Instead of that younger group being at the top, America has now—compared to our competitors—fallen to 16th place globally.

In other words, older Americans who benefited from a rational system of affordable college and abundant affordable loans are leading. Madam President, 55- to 64-year-olds are leading the globe in the percentage of population with a college degree. The younger we are getting in our country, the lower we are falling in our competitiveness with our competitors in terms of the kids who have college degrees. We wonder why that is. It is because the ability to afford college has been getting more and more difficult.

I am encouraged by my colleagues. We should be doing everything to encourage forthcoming generations to pursue higher education so we don't slide further in global rankings and compromise our long-term ability to compete. That is why I am standing here right now. That is why I am proud to cosponsor Senator WARREN's newly introduced legislation, the Bank on Students Emergency Loan Refinancing Act, which would allow those with outstanding student loan debt to refinance at the lower interest rates currently offered to new borrowers. It simply allows them to refinance loans the way you can with a mortgage and other types of loans. This will make us more competitive.

I commend a lot of my colleagues who spoke here. I especially commend Senator HARKIN, Senator REED, and Senator GILLIBRAND, who have been so active in calling attention to this issue.

We cannot afford for the cost of obtaining a higher education to be decades of crushing debt. It is unacceptable. The legislation we are talking about today seeks to lighten the burden on student borrowers and to put money back in their pockets and to help fuel our economy but, more importantly, to help everyone understand that in this Nation we are still doing everything possible to lead the globe in education.

There is a lot of work to do. My team is trying to focus on some issues I saw as mayor. For example, when I was mayor we worked with schools and financial aid counselors to help families simply fill out these forms that are necessary to obtain aid.

The College Board estimates that 2.3 million students do not fill out the free application for financial aid form, better known as the FAFSA form. They don't fill it out because of its complexities. They don't fill it out because of issues that make it difficult to even report what is necessary. As a result, many qualified students are skipping this process because they find it complex and burdensome. They are not even getting into college, not even afforded that pathway to cultivate their genius and apply it to our economy.

So much more can be done. This should be a national call to make college as affordable in this generation as it was for past generations. Past generations in America led the globe and drove the top economy on Earth because of that education, but now we are raising the wall and shutting out more of our young minds from this pathway because of unaffordable colleges.

For individuals, a college education translates to more than just odd job opportunities, more than just higher earnings, it is an ascent up the economic ladder.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BOOKER. Mr. President, I will conclude with this: In a recent study, it was found that the United States could add $500 billion to the gross domestic product over the next 15 years by increasing the number of workers with postsecondary education by 20 million—more workers, a greater economy, a more successful America, and a nation that leads the globe. Let's do and learn from what our parents and grandparents knew and did in this body and around the Nation.

Let's make college affordable for our citizens.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. SCHATZ. Mr. President, on the Senate floor we have been focusing on policies that give Americans a fair shot, bills that would help to reverse the growing trend of income inequality and create more opportunities to climb the economic ladder, the idea that if you work hard and plays by the rules, you can do well for your family and you can create a better opportunity for your children and their children.

Making college more affordable and reducing student loan debt is central to these goals. In fact, I think it is the middle-class issue of our generation.

It is hard to get ahead nowadays without a college degree, but the cost of college is growing faster than the cost of all other consumer goods—twice as fast as health care costs.

The growing cost of college is preventing some from getting a degree in the first place and leaving others with unmanageable levels of debt. This is the middle-class issue of our time.

Students have taken on more than $1 trillion in debt to cover the cost of college. Student debt is now the fastest growing and highest consumer debt burden behind mortgages.

This debt burden is not sustainable. Saddled with this debt, young adults are delaying starting families, buying homes and cars, and starting new businesses. The rate at which students are failing to repay their loans is alarming. Over one-third of borrowers who are in repayment are delinquent on their loans by 90 days or more. One-third of borrowers are delinquent.

One of my constituents from Wahiawa, HI, took out a loan to help their son go to college. The loan was for $92,000 in 2006. Today they owe $143,000. This local resident says:

> The interest compounds. It's like a loan shark, pretty close. There's no way out. No way to pay it, ever.

We are hearing these stories far too often from many families in Hawaii and across the country, and they need our help. A college education is supposed to be a path to opportunity and the American dream, not a life of debt. It is clear our current system is not working.

The Federal Government is giving $140 billion a year in financial aid to institutions of higher learning in Federal grants and loans. That is good, not bad. Higher education is the straightest line for us to develop the workforce we need and for people to move up the economic ladder, but with that $140 billion we should be making college more affordable for students. Instead, we are getting the opposite result for the $140 billion.

Average Pell grant awards have increased by almost 20 percent in the past 10 years. In that same time period, Pell grants covered 25 percent less of the average public school's tuition and fees. We are paying more and we are getting less. There is a growing gap between the financial aid that is available to students and the cost of college. To fill that gap, students are loading up on debt.

Last summer, Congress passed a bipartisan student loan compromise that lowered the student loan interest rate for new borrowers, but millions of student borrowers were left out of that deal and are paying much higher rates.

I am proud to join Senator WARREN in introducing the Bank on Students Emergency Loan Refinancing Act. This bill will allow students with outstanding student loan debt to refinance at the same low interest rates offered to new borrowers under the bipartisan student loan compromise.

That is fair. Students struggling with student debt deserve to get the same deal Congress is giving to new borrowers. But when we talk about making colleges more affordable, we need to remember that lowering student loan interest rates is only part of the problem. It is not just the interest; it is the principal.

We need a bold long-term plan to bring down the cost of college. That is why I introduced the College Affordability and Innovation Act with Senators CHRIS MURPHY, PATTY MURRAY, and BERNIE SANDERS. The bill is about holding schools accountable to taxpayers and students. We want to reward those schools that are focused on affordability and give incentives for the rest to make affordability part of their mission. If you are a college, you can have whatever mission you want, but you have no special right to Federal funding.

Our bill says, very simply, if you receive Federal dollars, part of your mission must be about affordability and access. There are potentially billions of dollars that are not being used wisely.

As we invest in higher education—and we should, through student loan subsidies and Federal financial aid—we should make sure schools are actually fulfilling our Federal public policy goals of making college more affordable and more accessible for all students.

Let's work together to make sure a college education is a path of opportunity for all students and not a life of debt.

## NATIONAL COMMISSION ON THE FUTURE OF THE ARMY ACT

Mr. LEAHY. Mr. President, yesterday Senator GRAHAM and I introduced a bill to establish a National Commission on the Future of the Army, an independent panel that will bear the responsibility of analyzing some major changes to the U.S. Army that were proposed in the President's budget. The Army's budget for Fiscal Year 2015 sets a path toward major, irreversible changes to Army capacity and capability, particularly in the Army National Guard and Army Reserves, that cannot be ignored by the Congress.

Senator GRAHAM, my fellow co-chair of the Senate National Guard Caucus, has said repeatedly that these changes fundamentally alter what it means for the National Guard to be a combat reserve of the Army. The changes would also render the Nation's operational reserve insufficient in its ability to retain gains in experience and readiness that the reserve has achieved over a decade of continuous deployment. Most dramatically, these changes would transfer all of the National Guard's AH–64 Apaches to the active component, leaving the Nation without any combat reserves for one of the aircraft most essential to ground operations.

But the changes that the President's budget proposal would begin to make next year go much deeper. They would eventually reduce the Nation's Army National Guard to 315,000 soldiers, the fewest in decades. The Chief of Staff of the Army, General Odierno, testified before the Appropriations Committee's Subcommittee on Defense that this number is too low.

General Odierno said that, at that level, if any of our assumptions about future conflict were wrong—that is unless operations were short, decisive, and did not require significant sustainability—then we would not be prepared. Our Nation's defense would be ill-prepared for future conflicts in the mold of past conflicts like Afghanistan, Iraq, Vietnam, or Korea.

No one needs to be reminded of the tight fiscal constraints our government currently faces, and that sequestration, unfortunately, remains the law of the land. Simply barring any changes from taking place in America's Army is not an option. The legislation that Senator GRAHAM and I propose will allow several of the Army's proposed cost-avoidance measures to move forward, while permitting time for a commission to study the major and truly controversial changes that have been proposed.

In addition to tasking the commission with considering overall size and force mix of the Army, this legislation calls for an evaluation of force generation assumptions. That is because the policies put into place during 13 years of war are not the same as those that will be needed post-drawdown, and determining the right modifications is essential to planning for the use and structure of the Army of the next decade.

Congress, under the authorities granted by the Constitution, has a responsibility to both raise and equip armies, and to regulate that portion of the militia which is called into Federal Service. When a budget proposal makes changes in those areas that are as considerable as these, it is entirely appropriate for Congress to hit the pause button and to ask for a second look.

We look forward to working with Members on both sides of the aisle to ensure that we properly balance and size the Army, and that we do not repeat past mistakes by needlessly discarding the depth of our forces.

## TRIBUTE TO LEWIS D. CARTER JR.

Mr. MCCONNELL. Mr. President, I rise today to honor an accomplished educator from my home State, the Commonwealth of Kentucky. Lewis D. Carter Jr. will retire from his position of superintendent of the Monroe Country Schools on July 1—nearly 40 years after beginning his career in education.

An intense passion for education runs throughout the Carter family. Lewis's grandfather was the first in the family to hold the post of superintendent of the Monroe County Schools in the early 1900s. His father also held the position for 28 years until his retirement in 1980, and his great-aunt and his great-uncle held the same position near the time of his grandfather. For Carter, teaching the next generation of children might as well be ingrained in his DNA.

Carter got his start in 1975 teaching health and PE. Since then, he has held positions across the education field. In 1991, he was made principal of Tompkinsville Elementary School. In 1994, he began 10 years as the director of adult education, in addition to coordinating the School to Work program. More recently he served as the deputy executive director of the Kentucky Education Cabinet—an assignment that immediately preceded his current position.

Carter will have plenty to keep him busy in retirement. In addition to his large family he and his wife of 42 years, Sheila, have two children and six grandchildren—Lewis will let you know that he has a ''hunting, fishing and golfing list'' that requires his attention.

While Lewis can look forward to some much deserved fun in his retirement, he will be sorely missed in the Monroe County School System. Lewis's big heart and passion for education serve as an example for us all. I ask that my U.S. Senate colleagues join me in honoring this exemplary citizen.

Mr. President, The Daily Times recently published an article chronicling Lewis D. Carter Jr.'s career. I ask unanimous consent that the full article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the Daily Times, April 11, 2014]

CARTER WILL RETIRE

(By Gina Kinslow)

After five years as superintendent of Monroe County schools, Lewis Carter is stepping down.

Carter announced his retirement Thursday night during the Monroe County Board of Education meeting. It becomes effective July 1.

After making his announcement, staff members and others present for the meeting, applauded and gave him a standing ovation.

Carter cited his age as one reason for retiring. He is 62. ''I think it's time [to retire],'' he said. ''I feel like it's time.''

Another reason for retiring is the success the school system has achieved in the last five years.

''I want to make sure when I retire that everything is good,'' he said.

Carter read a lengthy list of accomplishments for the school district before announcing his retirement.

''When I first came here, we set goals as the whole administrative staff,'' he said. ''We met every single goal without exception. When our team met the last goal, I said to myself, 'That's good.' That was in December.''

That last goal was seeing Monroe County High School become a high-achieving school and being listed in the 94.6 percentile.

''When I came here, we were like in the 28 percentile,'' he said.

Carter pointed out successes achieved by other schools in the district, including Monroe County Middle School becoming a national school to watch and being named one of the top-10 achieving middle schools in the state.

He noted Tompkinsville Elementary has been named a Blue Ribbon School nominee and Gamaliel Elementary won the Winners' Circle Choice Award in the Kentucky Tell Survey. GES was also recognized by the Kentucky Department of Education as an honor school two years in a row.

Joe Harrison Carter Elementary was named the overall winner of the Governor's Cup academic competition and has been recognized as K-PREP [Kentucky Performance Rating for Educational Progress] progressing school.

Toby Chapman, school board chairman, learned of Carter's retirement plans on Tuesday and said the news came as a shock.

''He had another year on his contract. I thought he was going to stay, but evidently he's ready to go,'' Chapman said.

Carter had a two-year contract with the school board to serve as superintendent.

Chapman praised Carter for the good job he has done as superintendent.

''I won't say we've always seen eye-to-eye on everything, but we've always worked out what was best for the kids,'' Chapman said.

Carter succeeded Rachel Ford and Liz Willett, who served as interim superintendents, following the resignation of George Wilson as superintendent.

Prior to becoming superintendent of Monroe County schools, Carter served as deputy executive director of the Kentucky Workforce and Education Cabinet. He also served in many roles for the Monroe County school system during his career, including as assistant principal and then principal of Tompkinsville Elementary.

He began his career in education in 1975 teaching health and physical education, as well as coaching school athletic teams.

As for his retirement plans, Carter said, ''I have a hunting, fishing and golfing list. I plan to have fun.''

Dr. Michael Carter, school board member, said he will miss Carter.

''Lewis has always been a great spokesman for our school and I know he truly cares about our schools and our children,'' he said. ''I don't think we will find anybody who cares more than Mr. Carter does.''

Eddie Proffitt, also a school board member, said Carter has done a lot for the school system.

''He was a good superintendent. He will be hard to replace,'' Proffitt said.

The search for a replacement will begin as soon as possible.

''e're going to meet with Lewis tomorrow. We are going to call a lawyer and get the ball rolling, so probably in the next couple of weeks we'll be advertising for applications,'' Chapman said.

He hopes to have a new superintendent hired by the first of June, so they can spend a month working with Carter, since his last day will be June 30.

## CONDEMNING ABDUCTION OF FEMALE STUDENTS IN NIGERIA

Mr. NELSON. Mr. President, the recent kidnappings of over 200 schoolgirls in Nigeria by Boko Haram, a terrorist organization whose name translates to ''Western education is sinful,'' has captured the world's attention and stirred global outrage.

These girls were abducted from their classrooms at gunpoint and their captors are now reportedly threatening to sell them into child marriages and slavery.

The Senate unanimously approved a resolution condemning Boko Haram for kidnapping these young girls and terrorizing the people of Nigeria, and Secretary of State John Kerry has publicly condemned the kidnappings, calling them an ''unconscionable crime'' and pledging our assistance.

Such inhumanity simply cannot be tolerated. As a nation, we must do all that we can to assist the people of Nigera and help them find these missing children.

Our thoughts and prayers are with them, and I am hopeful they will be reunited with their families soon.

## HONORING ISRAELI PRESIDENT SHIMON PERES

Mr. MCCAIN. Mr. President, today I was honored to take part in a ceremony honoring Israeli President Shimon Peres. I ask unanimous consent that the remarks I made at the ceremony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[May 7, 2014]

LUNCHEON IN HONOR OF SHIMON PERES

REMARKS BY SENATOR JOHN MCCAIN

It is my pleasure to join all of you today as we honor President Shimon Peres, one of the bravest and most principled political leaders of our time. I was honored to join with my colleagues in the Senate to pass legislation bestowing the congressional gold medal on this great man. I was not surprised when that legislation passed unanimously, and it my hope that our colleagues in the House will move forward with their own legislation soon.

President Peres deserves this honor. The story of his life is entwined with the story of

the birth and development of the State of Israel, and in him we see the essence of Israel itself—an invincible spirit that cannot be denied. Through his determination, his strength and perseverance, and his profound compassion, President Peres enabled a seemingly impossible dream to become a reality and changed forever the destiny of the Jewish people.

Even as a young man, Shimon Peres showed a dedication to public service and a commitment to the pursuit of justice and peace. He was an active leader in the ''Working Youth'' group, he founded a kibbutz in the Jordan Valley, and became a member of the Haganah [hah-gah-nah]—all before he reached 21.

Over the course of his seventy years of public service, President Peres has served as a member of the Knesset for 48 years and held virtually every position in dozens of cabinets, serving in nearly two dozen ministerial posts including twice as Prime Minister, and as Defense Minister, Treasury Minister, and Foreign Minister. He was then elected as the ninth President of the State of Israel, the position he holds today.

I have met many brave and inspiring people in my life, but there are few who have done more to preserve freedom for future generations than Shimon Peres. He recognized that the highest duty of leaders is to protect and preserve the freedom and security of their people, even in the face of hostility and in the face of doubt and disappointment. And this is just what President Peres has done, not only for the Jewish people but for all people.

He has been a leader for strength, building Israel's military and defense capabilities. He has been a leader for prosperity, helping make Israel one of the strongest economies in the world today. And he has been a leader for peace, making difficult and sometimes unpopular decisions in persuading the Palestinians to pursue negotiations and find peace for all, standing by his belief that all children, both Israeli and Arab alike, deserve the chance to grow up and grow old free from the threat of violence and tyranny.

In the time that I have known Shimon Peres, I have been inspired by his statesmanship, leadership, courage and civility. And among his many virtues, I have been most inspired by his idealism. Shimon Peres has always been a dreamer. He once said that ''dreaming is only being pragmatic''—words that drew criticism from some and laughter from others.

But he is right, of course. It is difficult to understand how someone who has witnessed such unspeakable horrors in his life can still place such faith in dreams. But it is due in part to his optimism and idealism, and his willingness to serve on behalf of those dreams, that Israel exists today. By never giving up on his dreams, Shimon Peres reminds us that we do not need to give in to complacency or cynicism—and why we can't afford to.

So I join all of you in recognizing the great achievements of Shimon Peres. And I thank you for devoting your time to honor this great man. With your help, it is my hope that our friends in the House will complete the necessary legislation, and all of us in Congress will be able to join together to express the abiding affection and admiration that we and the American people have for one of Israel's most distinguished sons—a man whose inspiration and impact will endure far beyond the generations who have witnessed them.

## RECOGNIZING MARRINER S. ECCLES

Mr. HATCH. Over time, many Utahns have been honored for their contributions to our country, and perhaps no one contributed more to our Nation's economic success at such a critical time than Marriner S. Eccles. I am honored to stand with the Eccles family this week as the Federal Reserve unveils a statue of Marriner Eccles in the atrium of the Marriner S. Eccles Building of the Federal Reserve Board in Washington, DC.

Marriner Stoddard Eccles was born in Logan, UT, on September 9, 1890, the oldest of nine children. Following the death of his father, who had become a leading industrialist with numerous enterprises, Marriner, at the young age of 22, took over the leadership of his father's businesses that were left to his mother, Ellen Eccles, and Marriner and his siblings. Previously, Marriner had worked in several of his father's businesses, had served a mission for the Church of Jesus Christ of Latter Day Saints, LDS, in Scotland and had attended Brigham Young College in Logan.

A superb business analyst and bold administrator, he reorganized and consolidated his father's industrial conglomerate and banking network. Eccles, along with his brother George, joined with the Browning family in Ogden, UT, to form the Eccles-Browning Affiliated Banks, believed to be the first multibank holding company in the United States.

With the onset of the Great Depression of the 1930s, banks around the country faced customers rushing to withdraw their deposits. The Eccles-Browning Affiliated Banks withstood several bank runs, and in the process, Eccles began to understand the need for a compensatory fiscal and monetary policy. In July of 1933, Eccles was one of the experts summoned by the Senate Finance Committee to travel to Washington to counsel Congress on the profound economic turmoil that was occurring across the country.

Eccles delivered 38 pages of testimony, including a distinct 5-point plan for fixing the economy. ''We must correct the causes of the depression rather than deal with the effects of it!'' became one of the most quoted lines from Eccles' dramatic testimony. His five-point plan included unemployment relief through direct aid to the States, a bank deposit guarantee program, canceling the World War I Allies' war debt, implementing a national minimum wage, and establishing a national economic planning board.

Eccles made his points clearly enough that the Roosevelt administration invited Eccles to join as an Assistant Treasury Secretary. Even when asked by President Franklin Delano Roosevelt to become a Governor of the Federal Reserve Board, Eccles stood strong and replied he would ''not unless fundamental changes [were] made in the (Federal Reserve).''

Eccles' involvement with policymaking did not stop there. He became involved with the Emergency Banking Act of 1933, the Federal Housing Act of 1934, and the 1933 law creating the Federal Deposit Insurance Corporation. With FDR's blessing, Eccles rewrote the 1935 Federal Reserve Act and became the first Chairman of the reorganized Federal Reserve Board, serving from 1936 to 1948. In February 1944, Roosevelt appointed Eccles to another 14-year term and Eccles stayed on the Board until 1951, when he resigned, marking a total of 17 years of service.

Eccles' talents combined with the policies he supported helped counter the recession crisis of 1937–1938, which in turn helped build America's economic strength prior to the attack on Pearl Harbor and World War II.

Many at the time considered Marriner Eccles' policies to be radical, but there is little doubt that his influence at the Federal Reserve continues to benefit our country today.

It is my honor to stand with the Eccles family this week and unveil yet another tribute to this remarkable Utahn we are so proud of.

## EXPANDING OPPORTUNITY THROUGH QUALITY CHARTER SCHOOLS

Mr. ALEXANDER. Mr. President, I am here to support the introduction of a bill I am cosponsoring, the Expanding Opportunity Through Quality Charter Schools Act.

Charter schools are about freedom for teachers, choices for parents, and more and better opportunities for students.

I gave the weekly address for the Republican Party on Easter weekend, and I said that, instead of mandating tasks for you to do, government should enable you to create a happier, safer, more prosperous life.

This bill is just the kind of proposal that enables people. It enables parents to help their children get a real opportunity by choosing better schools for them to attend. It enables students to learn and succeed. It enables teachers to succeed by giving them the freedom to use their firsthand knowledge.

And it enables administrators to succeed by freeing them from bureaucratic mandates and giving them the chance to use their good judgment.

The bill would continue the Federal charter schools program, which since 1994 has given grants to states to start new charter schools. It would make improvements to that program to ensure that those funds are used as effectively as possible to increase the number of high-quality charter schools.

Specifically, this bill would invest more Federal funds in the replication and expansion of high-quality charter schools with a proven record of success, while still giving States the flexibility to invest in innovative new models.

The bill would continue Federal support for non-profit organizations which help charter schools find suitable facilities, while also encouraging States to assist charter schools in this task.

It would provide those hard-working and creative educators seeking to open

charter schools with greater flexibility in how they use Federal startup grants, for example, by allowing them to use the funds for transportation or for facilities improvements if that is what they decide is the best use of funds.

Finally, this legislation would encourage States to provide charter schools with the support they need to be successful and to hold them accountable when they fail to demonstrate positive results.

Last summer, Senator RAND PAUL and I sat in a room with the parents who had been able to get their child into a charter school in Nashville, where 600 students were left on the waiting list.

It was an emotional experience to hear these parents talk about their child getting this opportunity, to hear the students talk about how well they are doing, and to hear from the teachers who spend their lives helping these students.

Charter schools are public schools stripped of many Federal, State and union rules and constraints placed on traditional public schools. The money the State government would ordinarily spend on their district school follows each child to the charter school instead.

Charter schools cannot charge tuition, and any student who wants to attend a charter school may do so if space is available.

If more students want to attend than can be accommodated, the charter school must use a lottery to decide which students receive a seat.

Several years ago I visited the Memphis Academy of Science and Engineering, a charter school in Memphis. While most Memphis students were on spring break at the time, the sophomores I visited were in the classroom studying Advanced Placement biology.

Because the school's teachers have the flexibility to do what is best for their students, the school was open 12 hours a day and on Saturday mornings because many of these children did not have as much at home as others. And these children, who the year before had been at schools deemed ''low-performing,'' were succeeding.

These students were fortunate because their parents had the opportunity to choose this charter school, and their children were lucky enough to win a seat.

Across Tennessee, more than 15,000 students now have that same opportunity to attend one of 68 charter schools—and they are thriving as a result.

A recent study by Stanford University found that, on average, Tennessee students attending charter schools gain the equivalent of 86 additional days of instruction in reading and 72 additional days of instruction in math each year than do students attending district schools.

In other words, they make almost a year-and-a-half's worth of progress in a single school year.

About 60 percent of students attending charter schools in Tennessee are low-income, more than 90 percent are African American or Hispanic.

In other words, charter schools in Tennessee are making a difference for those students who have traditionally been least well served by our Nation's public schools.

We have come a long way since 1992, when, in my last act as U.S. Education Secretary under George H.W. Bush, I sent a letter to every school superintendent across the country, urging them to consider replicating the early successes of charter schools in Minnesota—which were then called ''start-from-scratch schools.''

At the time, there were only a dozen charter schools in existence. Today, there are well over 6,000, serving over 2.5 million students. Nearly 5 percent of all public schools students in the United States now attend charters.

Most important—the fact that should give great urgency to our effort here today—there are an estimated 580,000 students on waiting lists for charter schools throughout the Nation.

That is because parents and students see that charter schools are working.

## RECOGNIZING THE FRANKLIN REGIONAL COMMUNITY

Mr. TOOMEY. Mr. President, today I wish to recognize the heroic acts of students and teachers during the crisis at Franklin Regional High School in Murrysville, PA. The entire community displayed astounding courage in the face of tragedy.

On the morning of April 9, 2014, a knife-wielding student assaulted students and teachers at Franklin Regional High School. During the attack, 24 people were injured, some gravely. However, thanks to the selfless actions of students, faculty, and support staff, the attacker was subdued and additional harm was prevented.

Students shielded friends from danger and administered emergency first aid, an attentive student had the composure to sound the fire alarm to warn people to exit the building, and several brave individuals put their safety on the line to incapacitate the attacker. At a time of crisis, the Franklin Regional family proved their commitment to one another.

I also want to acknowledge the brave actions of law enforcement and emergency personnel whose quick arrival ensured the safety of our students. Their prompt arrival provided life-saving medical attention to injured students and the community remains indebted to their vigilance.

I believe that the Senate should recognize the Franklin Regional community for their bravery and resiliency. It is imperative that the community knows that our country shares their grief and stands with them as they overcome this tragedy.

# ADDITIONAL STATEMENTS

## RECOGNIZING ADAM BOYD

• Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Adam Boyd for his hard work as an intern in my Washington, DC, office. I recognize his efforts and contributions to my office as well as to the State of Wyoming.

Adam is a native of Cheyenne, WY, and a graduate of Cheyenne East High School. He is also a recent graduate of the University of Wyoming, where he earned a degree in French. He has demonstrated a strong work ethic, which has made him an invaluable asset to our office. The quality of his work is reflected in his great efforts during his time in my office.

I thank Adam for the dedication he has shown while working for me and my staff. It was a pleasure to have him as part of our team. I know he will have continued success with all of his future endeavors. I wish him all my best on his next journey.•

## RECOGNIZING MARTHA CROSBY

• Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Martha Crosby for her hard work as an intern in my Washington, DC, office. I recognize her efforts and contributions to my office as well as to the State of Wyoming.

Martha is from Richmond, VA. She is a recent graduate of Virginia Commonwealth University, where she earned a degree in political science, concentration in politics and government. She has demonstrated a strong work ethic, which has made her an invaluable asset to our office. The quality of her work is reflected in her great efforts over the last few months.

I thank Martha for the dedication she has shown while working for me and my staff. It was a pleasure to have her as part of our team. I know she will have continued success with all of her future endeavors. I wish her all my best on her next journey.•

## RECOGNIZING PATTERSON OAKS

• Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Patterson Oaks for her hard work as an intern in my Casper, WY, office. I recognize her efforts and contributions to my office as well as to the State of Wyoming.

Patterson is a native of Casper, WY where she graduated from Natrona County High School. She attends Casper College where she is pursuing a degree in paralegal studies. She has demonstrated a strong work ethic, which has made her an invaluable asset to our office. The quality of her work is reflected in her great efforts over the last several months.

I thank Patterson for the dedication she has shown while working for me

and my staff. It was a pleasure to have her as part of our team. I know she will have continued success with all of her future endeavors. I wish her all my best on her next journey.●

## RECOGNIZING MICKALA SCHMIDT

● Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Mickala Schmidt for her hard work as an intern in my Casper, WY, office. I recognize her efforts and contributions to my office as well as to the State of Wyoming.

Mickala is a native of Casper, WY where she graduated from Natrona County High School. She attends Casper College where she is pursuing a degree in international studies and education. She has demonstrated a strong work ethic, which has made her an invaluable asset to our office. The quality of her work is reflected in her great efforts over the last several months.

I thank Mickala for the dedication she has shown while working for me and my staff. It was a pleasure to have her as part of our team. I know she will have continued success with all of her future endeavors. I wish her all my best on her next journey.●

## RECOGNIZING EMILY SMITHSON

● Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Emily Smithson for her hard work as an intern in my Washington, DC, office. I recognize her efforts and contributions to my office as well as to the State of Wyoming.

Emily is from San Marcos, CA. She is a recent graduate of Brigham Young University-Hawaii, where she earned a degree in political science and history. She has demonstrated a strong work ethic, which has made her an invaluable asset to our office. The quality of her work is reflected in her great efforts during her time in my office.

I thank Emily for the dedication she has shown while working for me and my staff. It was a pleasure to have her as part of our team. I know she will have continued success with all of her future endeavors. I wish her all my best on her next journey.●

## RECOGNIZING MATTHEW SPENNY

● Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Matthew Spenny for his hard work as an intern in my Washington, DC, office. I recognize his efforts and contributions to my office as well as to the State of Wyoming.

Matthew is from Laramie, WY, and is and a graduate of the University of Wyoming, where he earned a degree in communication and journalism. He has demonstrated a strong work ethic, which has made him an invaluable asset to our office. The quality of his work is reflected in his great efforts over the last several months.

I thank Matthew for the dedication he has shown while working for me and my staff. It was a pleasure to have him as part of our team. I know he will have continued success with all of his future endeavors. I wish him all my best on his next journey.●

## HARDIN COUNTY, IOWA

● Mr. HARKIN. Mr. President, the strength of my State of Iowa lies in its vibrant local communities, where citizens come together to foster economic development, make smart investments to expand opportunity, and take the initiative to improve the health and well-being of residents. Over the decades, I have witnessed the growth and revitalization of so many communities across my State. And it has been deeply gratifying to see how my work in Congress has supported these local efforts.

I have always believed in accountability for public officials, and this, my final year in the Senate, is an appropriate time to give an accounting of my work across four decades representing Iowa in Congress. I take pride in accomplishments that have been national in scope—for instance, passing the Americans with Disabilities Act and spearheading successful Farm Bills. But I take a very special pride in projects that have made a big difference in local communities across my State.

Today, I would like to give an accounting of my work with leaders and residents of Hardin County to build a legacy of a stronger local economy, better schools and educational opportunities, and a healthier, safer community.

Between 2001 and 2013, the creative leadership in your community has worked with me to secure funding in Hardin County worth over $2.3 million and successfully acquired financial assistance from programs I have fought hard to support, which have provided more than $10 million to the local economy.

Of course my favorite memory of working together has to be our shared commitment to school construction, renovation, and fire safety through the Harkin grant program. Working together with state and local communities, this funding has ensured Iowa students are learning in schools that are safe, and modern. I look forward to learning about the renovations made possible in Hardin County.

Among the highlights:

Investing in Iowa's economic development through targeted community projects: In Northern Iowa, we have worked together to grow the economy by making targeted investments in important economic development projects including improved roads and bridges, modernized sewer and water systems, and better housing options for residents of Hardin County. In many cases, I have secured Federal funding that has leveraged local investments and served as a catalyst for a whole ripple effect of positive, creative changes. For example, working with mayors, city council members, and local economic development officials in Hardin County, I have fought for funding for the Iowa National Guard Readiness Center in Iowa Falls worth $2 million, helping to create jobs and expand economic opportunities.

School grants: Every child in Iowa deserves to be educated in a classroom that is safe, accessible, and modern. That's why, for the past decade and a half, I have secured funding for the innovative Iowa Demonstration Construction Grant Program—better known among educators in Iowa as Harkin grants for public schools construction and renovation. Across 15 years, Harkin grants worth more than $132 million have helped school districts to fund a range of renovation and repair efforts—everything from updating fire safety systems to building new schools. In many cases, these Federal dollars have served as the needed incentive to leverage local public and private dollars, so it often has a tremendous multiplier effect within a school district. Over the years, Hardin County has received $396,191 in Harkin grants. Similarly, schools in Hardin County have received funds that I designated for Iowa Star Schools for technology totaling $73,350.

Agricultural and rural development: Because I grew up in a small town in rural Iowa, I have always been a loyal friend and fierce advocate for family farmers and rural communities. I have been a member of the House or Senate Agriculture Committee for 40 years—including more than 10 years as chairman of the Senate Agriculture Committee. Across the decades, I have championed farm policies for Iowans that include effective farm income protection and commodity programs; strong, progressive conservation assistance for agricultural producers; renewable energy opportunities; and robust economic development in our rural communities. Since 1991, through various programs authorized through the farm bill, Hardin County has received more than $6.6 million from a variety of farm bill programs.

Keeping Iowa communities safe: I also firmly believe that our first responders need to be appropriately trained and equipped, able to respond to both local emergencies and to statewide challenges such as—for instance, the methamphetamine epidemic. Since 2001, Hardin County's fire departments have received over $1.3 million for firefighter safety and operations equipment.

Disability Rights: Growing up, I loved and admired my brother Frank, who was deaf. But I was deeply disturbed by the discrimination and obstacles he faced every day. That is why I have always been a passionate advocate for full equality for people with

disabilities. As the primary author of the Americans with Disabilities Act (ADA) and the ADA Amendments Act, I have had four guiding goals for our fellow citizens with disabilities: equal opportunity, full participation, independent living and economic self-sufficiency. Nearly a quarter century since passage of the ADA, I see remarkable changes in communities everywhere I go in Iowa—not just in curb cuts or closed captioned television, but in the full participation of people with disabilities in our society and economy, folks who at long last have the opportunity to contribute their talents and to be fully included. These changes have increased economic opportunities for all citizens of Hardin County, both those with and without disabilities. And they make us proud to be a part of a community and country that respects the worth and civil rights of all of our citizens.

This is at least a partial accounting of my work on behalf of Iowa, and specifically Hardin County, during my time in Congress. In every case, this work has been about partnerships, cooperation, and empowering folks at the State and local level, including in Hardin County, to fulfill their own dreams and initiatives. And, of course, this work is never complete. Even after I retire from the Senate, I have no intention of retiring from the fight for a better, fairer, richer Iowa. I will always be profoundly grateful for the opportunity to serve the people of Iowa as their Senator.●

## HAMILTON COUNTY, IOWA

● Mr. HARKIN. Mr. President, the strength of my State of Iowa lies in its vibrant local communities, where citizens come together to foster economic development, make smart investments to expand opportunity, and take the initiative to improve the health and well-being of residents. Over the decades, I have witnessed the growth and revitalization of so many communities across my State. And it has been deeply gratifying to see how my work in Congress has supported these local efforts.

I have always believed in accountability for public officials, and this, my final year in the Senate, is an appropriate time to give an accounting of my work across four decades representing Iowa in Congress. I take pride in accomplishments that have been national in scope—for instance, passing the Americans with Disabilities Act and spearheading successful Farm Bills. But I take a very special pride in projects that have made a big difference in local communities across my State.

Today, I would like to give an accounting of my work with leaders and residents of Hamilton County to build a legacy of a stronger local economy, better schools and educational opportunities, and a healthier, safer community.

Between 2001 and 2013, the creative leadership in your community has worked with me to secure funding in Hamilton County worth over $548,000 million and successfully acquired financial assistance from programs I have fought hard to support, which have provided more than $7.6 million to the local economy.

Of course my favorite memories of working together have to include Webster City's commitment to rebuilding crumbling schools with Harkin school construction grants, and Jewell's tremendous success in downtown restoration through Main Street Iowa grants.

Among the highlights:

Main Street Iowa: One of the greatest challenges we face—in Iowa and all across America—is preserving the character and vitality of our small towns and rural communities. This isn't just about economics. It is also about maintaining our identity as Iowans.

Main Street Iowa helps preserve Iowa's heart and soul by providing funds to revitalize downtown business districts. This program has allowed towns like Jewell to use that money to leverage other investments to jumpstart change and renewal. I am so pleased that Hamilton County has earned $240,000 through this program. These grants build much more than buildings. They build up the spirit and morale of people in our small towns and local communities.

School grants: Every child in Iowa deserves to be educated in a classroom that is safe, accessible, and modern. That's why, for the past decade and a half, I have secured funding for the innovative Iowa Demonstration Construction Grant Program—better known among educators in Iowa as Harkin grants for public schools construction and renovation. Across 15 years, Harkin grants worth more than $132 million have helped school districts to fund a range of renovation and repair efforts—everything from updating fire safety systems to building new schools. In many cases, these Federal dollars have served as the needed incentive to leverage local public and private dollars, so it often has a tremendous multiplier effect within a school district. Over the years, Hamilton County has received $308,341 in Harkin grants. Similarly, schools in Hamilton County have received funds that I designated for Iowa Star Schools for technology totaling $65,000.

Agricultural and rural development: Because I grew up in a small town in rural Iowa, I have always been a loyal friend and fierce advocate for family farmers and rural communities. I have been a member of the House or Senate Agriculture Committee for 40 years—including more than 10 years as chairman of the Senate Agriculture Committee. Across the decades, I have championed farm policies for Iowans that include effective farm income protection and commodity programs; strong, progressive conservation assistance for agricultural producers; renewable energy opportunities; and robust economic development in our rural communities. Since 1991, through various programs authorized through the farm bill, Hamilton County has received more than $5.9 million from a variety of farm bill programs.

Keeping Iowa communities safe: I also firmly believe that our first responders need to be appropriately trained and equipped, able to respond to both local emergencies and to statewide challenges such as—for instance, the methamphetamine epidemic. Since 2001, Hamilton County's fire departments have received over $324,000 for firefighter safety and operations equipment.

Disability Rights: Growing up, I loved and admired my brother Frank, who was deaf. But I was deeply disturbed by the discrimination and obstacles he faced every day. That is why I have always been a passionate advocate for full equality for people with disabilities. As the primary author of the Americans with Disabilities Act (ADA) and the ADA Amendments Act, I have had four guiding goals for our fellow citizens with disabilities: equal opportunity, full participation, independent living and economic self-sufficiency. Nearly a quarter century since passage of the ADA, I see remarkable changes in communities everywhere I go in Iowa—not just in curb cuts or closed captioned television, but in the full participation of people with disabilities in our society and economy, folks who at long last have the opportunity to contribute their talents and to be fully included. These changes have increased economic opportunities for all citizens of Hamilton County, both those with and without disabilities. And they make us proud to be a part of a community and country that respects the worth and civil rights of all of our citizens.

This is at least a partial accounting of my work on behalf of Iowa, and specifically Hamilton County, during my time in Congress. In every case, this work has been about partnerships, cooperation, and empowering folks at the State and local level, including in Hamilton County, to fulfill their own dreams and initiatives. And, of course, this work is never complete. Even after I retire from the Senate, I have no intention of retiring from the fight for a better, fairer, richer Iowa. I will always be profoundly grateful for the opportunity to serve the people of Iowa as their Senator.●

## MONONA COUNTY, IOWA

● Mr. HARKIN. Mr. President, the strength of my State of Iowa lies in its vibrant local communities, where citizens come together to foster economic development, make smart investments to expand opportunity, and take the initiative to improve the health and well-being of residents. Over the decades, I have witnessed the growth and revitalization of so many communities

across my State. It has been deeply gratifying to see how my work in Congress has supported these local efforts.

I have always believed in accountability for public officials, and this, my final year in the Senate, is an appropriate time to give an accounting of my work across 4 decades representing Iowa in Congress. I take pride in accomplishments that have been national in scope—for instance, passing the Americans with Disabilities Act and spearheading successful farm bills. But I take a very special pride in projects that have made a big difference in local communities across my State.

Today, I would like to give an accounting of my work with leaders and residents of Monona County to build a legacy of a stronger local economy, better schools and educational opportunities, and a healthier, safer community.

Between 2001 and 2013, the creative leadership in your community has worked with me to secure funding in Monona County worth over $1.7 million and successfully acquired financial assistance from programs I have fought hard to support, which have provided more than $4.8 million to the local economy.

Of course my favorite memory of working together has to be our shared commitment to school construction, renovation, and fire safety through the Harkin grant program. Working together with State and local communities, this funding has ensured Iowa students are learning in schools that are safe, and modern. I look forward to learning about the renovations made possible in Monona County.

Among the highlights:

Investing in Iowa's economic development: In Western Iowa, we have worked together to grow the economy by making targeted investments in important economic development projects including improved roads and bridges, modernized sewer and water systems, and better housing options for residents of Monona County. In many cases, I have secured Federal funding that has leveraged local investments and served as a catalyst for a whole ripple effect of positive, creative changes. For example, I have consistently fought for job training dollars which have meant more than $800,000 in Monona County, helping to create jobs and expand economic opportunities.

School grants: Every child in Iowa deserves to be educated in a classroom that is safe, accessible, and modern. That is why, for the past decade and a half, I have secured funding for the innovative Iowa Demonstration Construction Grant Program—better known among educators in Iowa as Harkin grants for public schools construction and renovation. Across 15 years, Harkin Grants worth more than $132 million have helped school districts to fund a range of renovation and repair efforts—everything from updating fire safety systems to building new schools. In many cases, these Federal dollars have served as the needed incentive to leverage local public and private dollars, so it often has a tremendous multiplier effect within a school district. Over the years, Monona County has received $985,638 in Harkin Grants. Similarly, schools in Monona County have received funds that I designated for Iowa Star Schools for technology totaling $57,500.

Keeping Iowa communities safe: I also firmly believe that our first responders need to be appropriately trained and equipped, able to respond to both local emergencies and to statewide challenges such as—for instance, the methamphetamine epidemic. Since 2001, Monona County's fire departments have received over $498,000 for firefighter safety and operations equipment.

Disability Rights: Growing up, I loved and admired my brother Frank, who was deaf. But I was deeply disturbed by the discrimination and obstacles he faced every day. That is why I have always been a passionate advocate for full equality for people with disabilities. As the primary author of the Americans with Disabilities Act, ADA, and the ADA Amendments Act, I have had four guiding goals for our fellow citizens with disabilities: equal opportunity, full participation, independent living and economic self-sufficiency. Nearly a quarter century since passage of the ADA, I see remarkable changes in communities everywhere I go in Iowa—not just in curb cuts or closed captioned television, but in the full participation of people with disabilities in our society and economy, folks who at long last have the opportunity to contribute their talents and to be fully included. These changes have increased economic opportunities for all citizens of Monona County, both those with and without disabilities. And they make us proud to be a part of a community and country that respects the worth and civil rights of all of our citizens.

This is at least a partial accounting of my work on behalf of Iowa, and specifically Monona County, during my time in Congress. In every case, this work has been about partnerships, cooperation, and empowering folks at the State and local level, including in Monona County, to fulfill their own dreams and initiatives. And, of course, this work is never complete. Even after I retire from the Senate, I have no intention of retiring from the fight for a better, fairer, richer Iowa. I will always be profoundly grateful for the opportunity to serve the people of Iowa as their Senator.●

## RECOGNIZING OWL'S MOTHER'S DAY CAMPAIGN

● Mr. NELSON. Mr. President, today I wish to recognize OWL and the important work that it does for older women in our country. For more than 30 years, OWL has served as the only national nonprofit to focus solely on the issues of aging American women and be the voice for the 74 million mid-life and older women in our country.

Every Mother's Day, OWL focuses on a key issue that affects our Nation's aging women—our mothers, grandmothers, wives, sisters, aunts, and friends. Past issues of OWL's Mother's Day Campaign have ranged from examining our Nation's health care system, addressing the growing epidemic of elder abuse, and educating women on end-of-life choices. This year, OWL has chosen to focus on the need for quality, accessible long-term care. Women often serve as the primary caregivers for a loved one, and women also may need long-term services and supports as they outlive men. Today, OWL is hosting a briefing to unveil a report on key findings and discuss how this year's Mother's Day Campaign can create a dialogue around this topic.

I particularly look forward to seeing their findings this year. As chairman of the Senate Special Committee on Aging and particularly this May in observance of Older Americans Month, I am well aware of the need to examine the long-term care system in America. As the population ages and more Americans need long-term care services and supports, it is important that they receive high-quality care without placing a burden on their families. The Aging Committee has and will continue to examine this topic and raise awareness of the issues surrounding our Nation's long-term care.

OWL's continued work across the Nation is more critical now than ever before, and we must ensure that our existing long-term care system is able to meet the needs of America's women.●

## REMEMBERING ROBERT LEON DUNLAP

● Mr. SCOTT. Mr. President, I would like to take a moment today to note the passing of Robert Leon Dunlap, of North Charleston, SC. He died Thursday, April 17 at the age of 83.

Dunlap attended Midland Park Elementary School and graduated from North Charleston High School. He served in the Army during the Korean war, and was a 52-year veteran of the Charleston County Volunteer Fire and Rescue Squad. Robert was also married to Gloria Massalon Dunlap for 52 years.

Assistant Chief Dunlap helped found, and served in, the North Charleston Volunteer Rescue Association, which in 1973 was expanded to include all of Charleston County. This volunteer organization responds for accidents, fires, and land and water rescues. Dunlap was the association's treasurer more than 50 years. He earned the Order of the Palmetto for his services, and the current North Charleston headquarters is named in his honor.

While fulfilling his rescue duties, Dunlap also worked at the Charleston Naval Shipyard. During his 39-year career he earned many awards and commendations, including the Navy Meritorious Civilian Service Award.

Dunlap was a life member of the Veterans of Foreign Wars Post 5091, and served as post commander from 1959–1960. He also volunteered with the Boy Scouts, worked with Civil Defense, and donated over five gallons of blood to the American Red Cross.

Dunlap was buried with military honors at Carolina Memorial Park. I join the hundreds of people who attended his funeral and the people of North Charleston in expressing the deepest admiration for his life and work.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

## NOTIFICATION OF THE PRESIDENT'S INTENT TO WITHDRAW THE DESIGNATION OF RUSSIA AS A BENEFICIARY DEVELOPING COUNTRY UNDER THE GENERALIZED SYSTEM OF PREFERENCES (GSP) PROGRAM—PM 40

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

*To the Congress of the United States:*

Consistent with section 502(f)(2) of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2462(f)(2)), I am providing notice of my intent to withdraw the designation of Russia as a beneficiary developing country under the Generalized System of Preferences (GSP) program.

Sections 501(1) and (4) of the 1974 Act (19 U.S.C. 2461(1) and (4)), provide that, in affording duty-free treatment under the GSP, the President shall have due regard for, among other factors, the effect such action will have on furthering the economic development of a beneficiary developing country through the expansion of its exports and the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

Section 502(c) of the 1974 Act (19 U.S.C. 2462(c)) provides that, in determining whether to designate any country as a beneficiary developing country for purposes of the GSP, the President shall take into account various factors, including the country's level of economic development, the country's per capita gross national product, the living standards of its inhabitants, and any other economic factors he deems appropriate.

Having considered the factors set forth in sections 501 and 502(c) of the 1974 Act, I have determined that it is appropriate to withdraw Russia's designation as a beneficiary developing country under the GSP program because Russia is sufficiently advanced in economic development and improved in trade competitiveness that continued preferential treatment under the GSP is not warranted. I intend to issue a proclamation withdrawing Russia's designation consistent with section 502(f)(2) of the 1974 Act.

BARACK OBAMA.
THE WHITE HOUSE, *May 7, 2014.*

## REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13338 OF MAY 11, 2004, WITH RESPECT TO THE BLOCKING OF PROPERTY OF CERTAIN PERSONS AND PROHIBITION OF EXPORTATION AND RE-EXPORTATION OF CERTAIN GOODS TO SYRIA—PM 41

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), provides for the automatic termination of a national emergency, unless, within 90 days prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency with respect to the actions of the Government of Syria declared in Executive Order 13338 of May 11, 2004—as modified in scope and relied upon for additional steps taken in Executive Order 13399 of April 25, 2006, Executive Order 13460 of February 13, 2008, Executive Order 13572 of April 29, 2011, Executive Order 13573 of May 18, 2011, Executive Order 13582 of August 17, 2011, Executive Order 13606 of April 22, 2012, and Executive Order 13608 of May 1, 2012—is to continue in effect beyond May 11, 2014.

The regime's brutal war on the Syrian people, who have been calling for freedom and a representative government, endangers not only the Syrian people themselves, but could yield greater instability throughout the region. The Syrian regime's actions and policies, including supporting terrorist organizations and impeding the Lebanese government's ability to function effectively, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue in effect the national emergency declared with respect to this threat and to maintain in force the sanctions to address this national emergency.

In addition, the United States condemns the Asad regime's use of brutal violence and human rights abuses and calls on the Asad regime to stop its violent war and allow a political transition in Syria that will forge a credible path to a future of greater freedom, democracy, opportunity, and justice.

The United States will consider changes in the composition, policies, and actions of the Government of Syria in determining whether to continue or terminate this national emergency in the future.

BARACK OBAMA.
THE WHITE HOUSE, *May 7, 2014.*

NOTICE

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE ACTIONS OF THE GOVERNMENT OF SYRIA

On May 11, 2004, pursuant to his authority under the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the Syria Accountability and Lebanese Sovereignty Restoration Act Of 2003, Public Law 108–175, the President issued Executive Order 13338, in which he declared a national emergency with respect to the actions of the Government of Syria. To deal with this national emergency, Executive Order 13338 authorized the blocking of property of certain persons and prohibited the exportation or re-exportation of certain goods to Syria. The national emergency was modified in scope and relied upon for additional steps taken in Executive Order 13399 of April 25, 2006, Executive Order 13460 of February 13, 2008, Executive Order 13572 of April 29, 2011, Executive Order 13573 of May 18, 2011, Executive Order 13582 of August 17, 2011, Executive Order 13606 of April 22, 2012, and Executive Order 13608 of May 1, 2012.

The President took these actions to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions of the Government of Syria in supporting terrorism, maintaining its then-existing occupation of Lebanon, pursuing weapons of mass destruction and missile programs, and undermining U.S. and international efforts with respect to the stabilization and reconstruction of Iraq.

The regime's brutal war on the Syrian people, who have been calling for freedom and a representative government, endangers not only the Syrian people themselves but also is generating instability throughout the region. The Syrian regime's actions and policies, including the use of chemical

weapons, supporting terrorist organizations, and impeding the Lebanese government's ability to function effectively, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. As a result, the national emergency declared on May 11, 2004, and the measures to deal with that emergency adopted on that date in Executive Order 13338; on April 25, 2006, in Executive Order 13399; on February 13, 2008, in Executive Order 13460; on April 29, 2011, in Executive Order 13572; on May 18, 2011, in Executive Order 13573; on August 17, 2011, in Executive Order 13582; on April 22, 2012, in Executive Order 13606; and on May 1, 2012, in Executive Order 13608; must continue in effect beyond May 11, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), I am continuing for 1 year the national emergency declared with respect to the actions of the Government of Syria.

In addition, the United States condemns the Asad regime's use of brutal violence and human rights abuses and calls on the Asad regime to stop its violent war and allow a political transition in Syria that will forge a credible path to a future of greater freedom, democracy, opportunity, and justice.

The United States will consider changes in the composition, policies, and actions of the Government of Syria in determining whether to continue or terminate this national emergency in the future.

This notice shall be published in the Federal Register and transmitted to the Congress.

BARACK OBAMA.
THE WHITE HOUSE, *May 7, 2014*.

## MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:38 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4120. An act to amend the National Law Enforcement Museum Act to extend the termination date.

The enrolled bill was subsequently signed by the President pro tempore (Mr. LEAHY).

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At 11:55 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2672. An act to amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to provide for an application process for interested parties to apply for an area to be designated as a rural area, and for other purposes.

H.R. 2919. An act to amend titles 5 and 28, United States Code, to require annual reports to Congress on, and the maintenance of databases on, awards of fees and other expenses to prevailing parties in certain administrative proceedings and court cases to which the United States is a party, and for other purposes.

H.R. 3329. An act to enhance the ability of community financial institutions to foster economic growth and serve their communities, boost small businesses, increase individual savings, and for other purposes.

H.R. 3468. An act to amend the Federal Credit Union Act to extend insurance coverage to amounts held in a member account on behalf of another person, and for other purposes.

H.R. 3584. An act to amend the Federal Home Loan Bank Act to authorize privately insured credit unions to become members of a Federal home loan bank, and for other purposes.

H.R. 4292. An act to amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title.

H.R. 4386. An act to allow the Secretary of the Treasury to rely on State examinations for certain financial institutions, and for other purposes.

The message also announced that pursuant to section 743(b)(3) of the Consolidated Appropriations Act, 2014 (Public Law 113–76), and the order of the House of January 3, 2013, the Minority Leader appoints the following individuals on the part of the House of Representatives to the National Commission on Hunger: Dr. Deborah Alice Frank, MD of Brookline, Massachusetts, and William Howard Shore of Boston, Massachusetts.

ENROLLED BILL SIGNED

At 1:41 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4192. An act to amend the Act entitled ''An Act to regulate the height of buildings in the District of Columbia'' to clarify the rules of the District of Columbia regarding human occupancy of penthouses above the top story of the building upon which the penthouse is placed.

The enrolled bill was subsequently signed by the President pro tempore (Mr. LEAHY).

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2919. An act to amend titles 5 and 28, United States Code, to require annual reports to Congress on, and the maintenance of databases on, awards of fees and other expenses to prevailing parties in certain administrative proceedings and court cases to which the United States is a party, and for other purposes; to the Committee on the Judiciary.

H.R. 3329. An act to enhance the ability of community financial institutions to foster economic growth and serve their communities, boost small businesses, increase individual savings, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3468. An act to amend the Federal Credit Union Act to extend insurance coverage to amounts held in a member account on behalf of another person, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3584. An act to amend the Federal Home Loan Bank Act to authorize privately insured credit unions to become members of a Federal home loan bank, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4292. An act to amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title; to the Committee on the Judiciary.

H.R. 4386. An act to allow the Secretary of the Treasury to rely on State examinations for certain financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

## MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2824. An act to amend the Surface Mining Control and Reclamation Act of 1977 to stop the ongoing waste by the Department of the Interior of taxpayer resources and implement the final rule on excess spoil, mining waste, and buffers for perennial and intermittent streams, and for other purposes.

H.R. 3826. An act to provide direction to the Administrator of the Environmental Protection Agency regarding the establishment of standards for emissions of any greenhouse gas from fossil fuel-fired electric utility generating units, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5606. A communication from the Director of Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Ophthalmic Devices; Classification of the Eyelid Weight'' (Docket No. FDA–2013–N–0069) received in the Office of the President of the Senate on April 30, 2014; to the Committee on Health, Education, Labor, and Pensions.

EC–5607. A communication from the Director of Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Labeling: Nutrient Content Claims; Alpha-Linolenic Acid, Eicosapentaenoic Acid, and Docasahexaenoic Acid Omega-3 Fatty Acids'' ((Docket Nos. FDA–2007–0601, FDA–2004–N–0382, FDA–2005–P–0371, and FDA–2006–P–0224 (formerly Docket Nos. 2004N–0217, 2005P–0189, and 2006P–0137, respectively))(RIN0910–ZA28)) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Health, Education, Labor, and Pensions.

EC–5608. A communication from the General Counsel, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Parts 4022 and 4044) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Health, Education, Labor, and Pensions.

EC–5609. A communication from the Acting Director, Directorate of Standards and Guidance, Occupational Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled ''Vertical Tandem Lifts'' (RIN1218–AC72) received in the

Office of the President of the Senate on May 1, 2014; to the Committee on Health, Education, Labor, and Pensions.

EC–5610. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''National Plan to Address Alzheimer's Disease: 2014 Update''; to the Committee on Health, Education, Labor, and Pensions.

EC–5611. A communication from the Associate General Counsel for General Law, Department of Homeland Security, transmitting, pursuant to law, a report relative to a vacancy in the position of Under Secretary for Science and Technology, Department of Homeland Security, received in the Office of the President of the Senate on May 1, 2014; to the Committee on Homeland Security and Governmental Affairs.

EC–5612. A communication from the Acting Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Change in Submission Requirements for State Mitigation Plans'' ((44 CFR Part 201) (Docket No. FEMA–2012–0001)) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Homeland Security and Governmental Affairs.

EC–5613. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Political Activity—State or Local Officers or Employees; Federal Employees Residing in Designated Localities; Federal Employees'' (RIN3206–AM87) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Homeland Security and Governmental Affairs.

EC–5614. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Special Wage Schedules for Nonappropriated Fund Automotive Mechanics'' (RIN3206–AM63) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Homeland Security and Governmental Affairs.

EC–5615. A communication from the Comptroller General of the United States, Government Accountability Office, transmitting, pursuant to law, a report relative to the Office's audit of the United States government's fiscal years 2013 and 2012 consolidated financial statements; to the Committee on Homeland Security and Governmental Affairs.

EC–5616. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the Inspector General's Semiannual Report for the six-month period from October 1, 2013 through March 31, 2014; to the Committee on Homeland Security and Governmental Affairs.

EC–5617. A communication from the Chair, U.S. Sentencing Commission, transmitting, pursuant to law, the amendments to the federal sentencing guidelines that were proposed by the Commission during the 2013–2014 amendment cycle; to the Committee on the Judiciary.

EC–5618. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, an annual report on crime victims' rights; to the Committee on the Judiciary.

EC–5619. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Giants Enterprises Fireworks Display, San Francisco Bay, San Francisco, CA'' ((RIN1625–AA00) (Docket No. USCG–2014–0174)) received in the Office of the President of the Senate on May 6, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5620. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Ohio River, Mile 803.5 to 804.5'' ((RIN1625–AA00) (Docket No. USCG–2014–0186)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5621. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone for Fireworks Display, Patapsco River, Northwest Harbor (East Channel); Baltimore, MD'' ((RIN1625–AA00) (Docket No. USCG–2014–0236)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5622. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zones; Naval Base Point Loma; Naval Mine Anti Submarine Warfare Command; San Diego Bay, San Diego, CA'' ((RIN1625–AA87) (Docket No. USCG–2013–0580)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5623. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Lucas Oil Drag Boat Racing Series; Thompson Bay, Lake Havasu City, AZ'' ((RIN1625–AA00) (Docket No. USCG–2014–0153)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5624. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; BWRC West Coast Nationals; Parker, AZ'' ((RIN1625–AA00) (Docket No. USCG–2014–0140)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5625. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; New Jersey Intracoastal Waterway (NJICW), Barnegat Bay, Seaside Heights, NJ'' ((RIN1625–AA00) (Docket No. USCG–2013–0926)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5626. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Lucas Oil Drag Boat Racing Series; Lake Havasu City, AZ'' ((RIN1625–AA00) (Docket No. USCG–2014–0058)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5627. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety zone; Sea World San Diego Fireworks, Mission Bay; San Diego, CA'' ((RIN1625–AA00) (Docket No. USCG–2014–0015)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5628. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; The Boat Show Marathon; Lake Havasu, AZ'' ((RIN1625–AA00) (Docket No. USCG–2014–0102)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5629. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation, Rotary Club of Fort Lauderdale New River Raft Race, New River; Fort Lauderdale, FL'' ((RIN1625–AA00) (Docket No. USCG–2014–0001)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5630. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation; Charleston Race Week, Charleston Harbor; Charleston, SC'' ((RIN1625–AA00) (Docket No. USCG–2014–0096)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5631. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone, Texas City Channel; Texas City, TX'' ((RIN1625–AA00) (Docket No. USCG–2014–0034)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5632. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Akadama Fireworks Display, Richmond Inner Harbor, Richmond, CA'' ((RIN1625–AA00) (Docket No. USCG–2014–0133)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5633. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Lake Havasu Gran Prix; Lake Havasu, AZ'' ((RIN1625–AA00) (Docket No. USCG–2014–0177)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5634. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Pago Pago Harbor, American Samoa'' ((RIN1625–AA00) (Docket No. USCG–2014–0014)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5635. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Gulf Intracoastal Waterway, Inner Harbor Navigation

Canal, New Orleans, LA'' ((RIN1625–AA00) (Docket No. USCG–2009–0139)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5636. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Eighth Coast Guard District Annual and Recurring Marine Events Update'' ((RIN1625–AA00) (Docket No. USCG–2013–1061)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5637. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Xterra Swim, Myrtle Beach, SC'' ((RIN1625–AA00) (Docket No. USCG–2014–0161)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5638. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones; Eighth Coast Guard District Annual and Recurring Safety Zones Update'' ((RIN1625–AA00) (Docket No. USCG–2013–1060)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5639. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Helicopter Lift Operations, Main Branch Chicago River, Chicago, IL'' ((RIN1625–AA00) (Docket No. USCG–2014–0128)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5640. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Great Egg Harbor Bay, (Ship Channel and (Beach Thorofare NJICW)), Somers Point and Ocean City, NJ'' ((RIN1625–AA00) (Docket No. USCG–2014–0121)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5641. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Military Munitions Recovery, Raritan River, Raritan, NJ'' ((RIN1625–AA00) (Docket No. USCG–2014–0153)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5642. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Arthur Kill, NY and NJ'' ((RIN1625–AA00) (Docket No. USCG–2011–0727)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5643. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Bat Mitzvah Celebration Fireworks Display; Joshua Cove; Guilford, CT'' ((RIN1625–AA00) (Docket No. USCG–2014–0158)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5644. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; Bars along the Coasts of Oregon and Washington'' ((RIN1625–AA00) (Docket No. USCG–2013–0216)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5645. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation; Low Country Splash, Wando River, Cooper River, and Charleston Harbor; Charleston, SC'' ((RIN1625–AA00) (Docket No. USCG–2014–0110)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5646. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones, Delaware River, Pea Patch Island Anchorage No. 5 and Reedy Point South Anchorage No. 3'' ((RIN1625–AA00) (Docket No. USCG–2014–0051)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5647. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones; Revolution 3 Triathlon, Lake Erie, Sandusky Bay, Sandusky, OH'' ((RIN1625–AA00) (Docket No. USCG–2012–0730)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5648. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone, Barnegat Inlet; Barnegat Light, NJ'' ((RIN1625–AA00) (Docket No. USCG–2014–0145)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5649. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Broad Creek, Laurel, DE'' ((RIN1625–AA00) (Docket No. USCG–2013–0778)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5650. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Piscataqua River Channel Obstruction near Memorial Bridge, Piscataqua River, Portsmouth, NH'' ((RIN1625–AA00) (Docket No. USCG–2014–0159)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5651. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations and Safety Zones; Recurring Events in Northern New England'' ((RIN1625–AA00) (Docket No. USCG–2013–0904)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5652. A communication from the Attorney-Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations for Marine Events, Tred Avon River; Between Bellevue, MD and Oxford, MD'' ((RIN1625–AA00) (Docket No. USCG–2013–1059)) received during adjournment of the Senate in the Office of the President of the Senate on May 2, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5653. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Final Rule To Allow Northeast Multispecies Sector Vessels Access to Year-Round Closed Areas'' (RIN0648–BD09) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5654. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery'' (RIN0648–AT31) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5655. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures'' (RIN0648–BD65) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5656. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions in the Eastern Pacific Ocean'' (RIN0648–BD52) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5657. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2014 and 2015 Harvest Specifications for Groundfish; Correction'' (RIN0648–XC895) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5658. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled

''Temporary Rule To Establish Separate Annual Catch Limits and Accountability Measures for Blueline Tilefish in the South Atlantic Region'' (RIN0648–BD87) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5659. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Framework Adjustment 8'' (RIN0648–BD65) received in the Office of the President of the Senate on May 1, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5660. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trimester Closure and Trip Limit Adjustments for the Common Pool Fishery'' (RIN0648–XD212) received in the Office of the President of the Senate on May 6, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5661. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Trawl Catcher Vessels in the Central Regulatory Area of the Gulf of Mexico'' (RIN0648–XD225) received in the Office of the President of the Senate on April 30, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5662. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Phase 1 Reopening for the Directed Butterfish Fishery'' (RIN0648–XD205) received in the Office of the President of the Senate on April 30, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5663. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Biennial Specifications and Management Measures; Inseason Adjustments'' (RIN0648–BE10) received in the Office of the President of the Senate on April 30, 2014; to the Committee on Commerce, Science, and Transportation.

EC–5664. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Hook-and-Line Gear in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XD182) received in the Office of the President of the Senate on April 30, 2014; to the Committee on Commerce, Science, and Transportation.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. SHAHEEN:

S. 2296. A bill to require the Secretary of Veterans Affairs to employ at least three decision review officers at each regional office of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. TESTER:

S. 2297. A bill to make demonstration grants to eligible local educational agencies or consortia of eligible local educational agencies for the purpose of reducing the student-to-school nurse ratio in public elementary schools and secondary schools; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. SHAHEEN (for herself and Ms. COLLINS):

S. 2298. A bill to provide for a lifetime National Recreational Pass for any veteran with a service-connected disability, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON of South Dakota (for himself, Ms. MURKOWSKI, Mr. BEGICH, Mr. FRANKEN, Mr. HEINRICH, Ms. HIRONO, Mr. SCHATZ, Mr. TESTER, Mr. UDALL of New Mexico, and Mr. KING):

S. 2299. A bill to amend the Native American Programs Act of 1974 to reauthorize a provision to ensure the survival and continuing vitality of Native American languages; to the Committee on Indian Affairs.

By Mr. DONNELLY (for himself and Mr. WICKER):

S. 2300. A bill to amend title 10, United States Code, to require the Secretary of Defense to conduct periodic mental health assessments for members of the Armed Forces and to submit reports with respect to mental health, and for other purposes; to the Committee on Armed Services.

By Mr. HATCH (for himself, Mr. SCHUMER, Mr. PORTMAN, Mr. MARKEY, Mr. TOOMEY, Mrs. MURRAY, Mr. GRAHAM, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. MCCAIN, Mr. CORNYN, Ms. KLOBUCHAR, and Mr. PRYOR):

S. 2301. A bill to amend section 2259 of title 18, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mrs. SHAHEEN (for herself, Mr. MCCAIN, Mr. CARDIN, Mr. KAINE, Mr. KIRK, Mr. MARKEY, and Mr. PORTMAN):

S. 2302. A bill to provide for a 1-year extension of the Afghan Special Immigrant Visa Program, and for other purposes; to the Committee on the Judiciary.

By Mr. MURPHY (for himself and Mr. BLUMENTHAL):

S. 2303. A bill to require the Secretary of the Treasury to mint coins in commemoration of the United States Coast Guard; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KIRK (for himself, Ms. LANDRIEU, Mr. ALEXANDER, Mr. BENNET, Mrs. FEINSTEIN, Mr. PAUL, Mr. ISAKSON, Mr. RUBIO, Mr. VITTER, Mr. CORNYN, Mr. SCOTT, Mr. BOOKER, Mr. HATCH, Mr. CARPER, Mr. MCCONNELL, and Mr. CRUZ):

S. 2304. A bill to amend the charter school program under the Elementary and Secondary Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 40

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 40, a bill to restore Americans' individual liberty by striking the Federal mandate to purchase insurance.

S. 162

At the request of Mr. FRANKEN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 162, a bill to reauthorize and improve the Mentally Ill Offender Treatment and Crime Reduction Act of 2004.

S. 257

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 257, a bill to amend title 38, United States Code, to require courses of education provided by public institutions of higher education that are approved for purposes of the educational assistance programs administered by the Secretary of Veterans Affairs to charge veterans tuition and fees at the in-State tuition rate, and for other purposes.

S. 398

At the request of Ms. COLLINS, the name of the Senator from Nebraska (Mrs. FISCHER) was added as a cosponsor of S. 398, a bill to establish the Commission to Study the Potential Creation of a National Women's History Museum, and for other purposes.

S. 399

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 399, a bill to protect American job creation by striking the Federal mandate on employers to offer health insurance.

S. 489

At the request of Mr. THUNE, the name of the Senator from South Carolina (Mr. SCOTT) was added as a cosponsor of S. 489, a bill to amend the Tariff Act of 1930 to increase and adjust for inflation the maximum value of articles that may be imported duty-free by one person on one day, and for other purposes.

S. 1011

At the request of Mr. JOHANNS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1011, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of Boys Town, and for other purposes.

S. 1174

At the request of Mr. BLUMENTHAL, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1174, a bill to award a Congressional Gold Medal to the 65th Infantry Regiment, known as the Borinqueneers.

S. 1431

At the request of Mr. WYDEN, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. 1431, a bill to permanently extend the Internet Tax Freedom Act.

S. 1839

At the request of Mr. BEGICH, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 1839, a bill to make certain luggage and travel articles eligible for duty-free treatment under the Generalized System of Preferences, and for other purposes.

S. 1862

At the request of Mr. BLUNT, the names of the Senator from Illinois (Mr.

DURBIN), the Senator from Rhode Island (Mr. REED), the Senator from California (Mrs. BOXER), the Senator from Indiana (Mr. DONNELLY), the Senator from Florida (Mr. NELSON) and the Senator from Hawaii (Mr. SCHATZ) were added as cosponsors of S. 1862, a bill to grant the Congressional Gold Medal, collectively, to the Monuments Men, in recognition of their heroic role in the preservation, protection, and restitution of monuments, works of art, and artifacts of cultural importance during and following World War II.

S. 2012

At the request of Mr. WHITEHOUSE, the name of the Senator from New Mexico (Mr. HEINRICH) was added as a cosponsor of S. 2012, a bill to amend the Controlled Substances Act to more effectively regulate anabolic steroids.

S. 2117

At the request of Ms. WARREN, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 2117, a bill to amend title 5, United States Code, to change the default investment fund under the Thrift Savings Plan, and for other purposes.

S. 2182

At the request of Mr. WALSH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2182, a bill to expand and improve care provided to veterans and members of the Armed Forces with mental health disorders or at risk of suicide, to review the terms or characterization of the discharge or separation of certain individuals from the Armed Forces, to require a pilot program on loan repayment for psychiatrists who agree to serve in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes.

S. 2193

At the request of Mr. ALEXANDER, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2193, a bill to amend the Horse Protection Act to provide increased protection for horses participating in shows, exhibitions, or sales, and for other purposes.

S. 2194

At the request of Ms. HIRONO, the names of the Senator from Massachusetts (Mr. MARKEY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2194, a bill to improve the Federal Pell Grant program, and for other purposes.

S. 2209

At the request of Mr. CARDIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2209, a bill to require a report on accountability for war crimes and crimes against humanity in Syria.

S. 2226

At the request of Mr. UDALL of New Mexico, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2226, a bill to establish a WaterSense program within the Environmental Protection Agency.

S. 2265

At the request of Mr. PAUL, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 2265, a bill to prohibit certain assistance to the Palestinian Authority.

S. 2270

At the request of Ms. COLLINS, the names of the Senator from Virginia (Mr. WARNER) and the Senator from North Carolina (Mrs. HAGAN) were added as cosponsors of S. 2270, a bill to clarify the application of certain leverage and risk-based requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

S. 2282

At the request of Mr. ROBERTS, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 2282, a bill to prohibit the provision of performance awards to employees of the Internal Revenue Service who owe back taxes.

S. 2292

At the request of Ms. WARREN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 2292, a bill to amend the Higher Education Act of 1965 to provide for the refinancing of certain Federal student loans, and for other purposes.

S. 2295

At the request of Mr. LEAHY, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Wyoming (Mr. BARRASSO), the Senator from Kansas (Mr. MORAN), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 2295, a bill to establish the National Commission on the Future of the Army, and for other purposes.

S. RES. 433

At the request of Ms. LANDRIEU, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. Res. 433, a resolution condemning the abduction of female students by armed militants from the Government Girls Secondary School in the northeastern province of Borno in the Federal Republic of Nigeria.

AMENDMENT NO. 2990

At the request of Mr. BARRASSO, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of amendment No. 2990 intended to be proposed to S. 2262, a bill to promote energy savings in residential buildings and industry, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSON of South Dakota (for himself, Ms. MURKOWSKI, Mr. BEGICH, Mr. FRANKEN, Mr. HEINRICH, Ms. HIRONO, Mr. SCHATZ, Mr. TESTER, Mr. UDALL of New Mexico, and Mr. KING):

S. 2299. A bill to amend the Native American Programs Act of 1974 to reauthorize a provision to ensure the survival and continuing vitality of Native American languages; to the Committee on Indian Affairs.

Mr. JOHNSON of South Dakota. Mr. President, today Senator MURKOWSKI and I introduce the Native American Languages Reauthorization Act of 2014. We are also joined by our fellow colleagues and cosponsors of this bill: Senators BEGICH, FRANKEN, HEINRICH, HIRONO, KING, SCHATZ, TESTER, and TOM UDALL.

Since the Native American Languages Act of 1992 became law, we have made considerable progress in keeping native languages alive. The Native American Languages Act of 1992 established a grant program within the Native American Programs Act of 1974 to ensure the survival of native languages. Through the Health and Human Services Department Administration for Native Americans, the native languages grant program has made documented impacts on the revival of Native languages across Indian Country.

The bill we introduce today will reauthorize the native languages grant program until fiscal year 2019. The Native language grant program has made several reports to Congress on the significant impacts that its grants have for native communities. In the 2012 report on the Impact and Effectiveness of Administration for Native American Projects, out of the 63 total language grantees, Administration for Native Americans evaluated 22 language projects from across Indian Country. The 2012 impact data showed that from these 22 projects a total of 178 language teachers were trained; 2,340 youth had increased their ability to speak a Native language or achieved fluency; and 2,586 adults had increased their ability to speak a Native language or achieved fluency.

Promoting Native language programs will strengthen our Native cultures and, according to the National Indian Education Association, will also promote higher academic success in other areas of learning. The continuity of Native languages is a link to previous generations and should be preserved for future generations.

The Native Americans Languages Act has helped to save native languages and encourages both young children and adults to develop a fluency in their Native language. Across South Dakota and Indian Country, this vital grant funding gives the opportunity for our cherished Native elders to sit down with the younger generation to pass on native languages. We must continue our efforts to promote Native language revitalization programs to ensure the preservation of Native American cultures, histories, and traditions.

I urge my colleagues to join us and reauthorize this important legislation

to save and preserve native languages before it is too late.

By Mr. HATCH (for himself, Mr. SCHUMER, Mr. PORTMAN, Mr. MARKEY, Mr. TOOMEY, Mrs. MURRAY, Mr. GRAHAM, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. MCCAIN, Mr. CORNYN, Ms. KLOBUCHAR, and Mr. PRYOR):

S. 2301. A bill to amend section 2259 of title 18, United States Code, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, today I will introduce legislation that will help victims of one of the most vicious crimes and one of the most evil crimes in our society: child pornography.

When Congress enacted the Violence Against Women Act more than 20 years ago—and I had a lot to do with that, and then-Senator Biden deserves an awful lot of the credit for that—the law required that the defendant in a child sexual exploitation case must pay restitution ''for the full amount of the victim's losses.'' Those losses can include lost income as well as expenses for medical services, therapy, rehabilitation, transportation, and childcare.

The restitution statute works in a straightforward way for crimes that involve individual defendants who cause specific harm to particular victims. But child pornography is different. Victims not only suffer from the initial abuse, but they continue to suffer as images of that abuse are created, distributed, and possessed. As the Supreme Court recently put it, ''Every viewing of child pornography is a repetition of the victim's abuse.''

In the Internet age, a child pornography victim's abuse never ends, but identifying everyone who contributes to that ongoing abuse can be difficult, if not impossible. A predator who commits and records the abuse might be readily identified. Those who distribute those images, however, are harder to find, and many who obtain and possess them might never be identified at all. They may get lost in the crowd. They may seek safety in shadows. But the harm they cause to victims is no less devastating.

Our challenge is to craft a restitution statute suited for this unique kind of crime. We are meeting that challenge today by introducing the Amy and Vicky Child Pornography Victim Restitution Improvement Act. Amy and Vicky are victims in two of the most widely distributed child pornography series in the world. They know how difficult it is to seek restitution for ongoing harm caused by unknown people.

The Supreme Court reviewed Amy's case and issued a decision on April 23, titled ''Paroline v. United States.'' The Court said the existing restitution statute is not suited for her kind of case because it requires proving how one defendant's possession of particular images concretely harmed an individual victim. That is simply impossible to prove and puts the burden on victims forever to chase defendants only to recover next to nothing.

Several of my colleagues, both Republican and Democratic, joined me on a legal brief in that case. We hoped that the Supreme Court would construe the existing statute in a way that was workable to protect child pornography victims. The Court chose not to do that, and it is up to Congress to craft a statute that works. I believe we are up to the task, and the bill I am introducing today is the way to do it.

The Amy and Vicky act creates an effective, balanced restitution process for victims of child pornography that responds to the Supreme Court's decision in Paroline v. United States. It does three things. First, it considers a victim's total losses, including from individuals who may not have yet been identified. This step reflects the unique nature of child pornography and its ongoing impact on its victims. Secondly, the bill requires real and timely restitution and gives judges options for making that happen. Third, it allows defendants who have contributed to the same victim's losses to spread the cost of restitution among themselves. If a victim was harmed by a single defendant, the defendant must pay full restitution for all of the victim's losses, but if a victim was harmed by multiple individuals, a judge has options for imposing restitution on a defendant, depending on the circumstances of the case. The defendant can be required to pay the full amount of the victim's losses or the defendant can pay less than the full amount but at least a statutory minimum for crimes, such as possession, distribution or production of the child pornography.

In its decision in the Paroline case, the Supreme Court discussed whether a defendant should pay full restitution for harms that he did not cause entirely by himself. At the same time, the Court recognized that the harm from child pornography flows from the trade or the continuing traffic in the images. It would be perverse to say that as more individuals contribute to a victim's harm and loss by obtaining images of her abuse, the less responsible each of them is so that the victim ends up with nothing. The Amy and Vicky act addresses these issues.

A defendant may sue others who have harmed the same victim in order to spread the costs of restitution but must do so in a timely fashion and only after the victim has received real and timely payment. As my colleagues may know, Federal law already provides for criminal defendants who must pay restitution to do so on a payment schedule suitable for their individual circumstances.

I wish to thank three groups of people who have been critical in bringing us to this point only 2 weeks after the Supreme Court's decision. First and foremost, I wish to recognize and thank both Amy and Vicky, the brave women for whom this bill is named who represent so many child pornography victims. Amy and Vicky both endorse this legislation.

I ask unanimous consent that a letter from each of them be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMY'S LETTER SUPPORTING THE AMY AND VICKY CHILD PORNOGRAPHY VICTIM RESTITUTION IMPROVEMENT ACT OF 2014

I am writing today to give my support to the Amy and Vicky Child Pornography Victim Restitution Improvement Act of 2014. It is very important that this law get passed as soon as possible.

The past eight years of my life have been filled with hope and horror. Life was pretty horrible when I realized that the pictures of my childhood sex abuse were on the Internet for anyone and everyone to see. Imagine the worst most humiliating moments of your life captured for everyone to see forever. Then imagine that as a child you didn't even really know what was happening to you and you didn't want it to happen but you couldn't stop it. You were abused, raped, and hurt and this is something that other people want. They enjoy it. They can't stop collecting it and asking for it and trading it with other people. And it's you. It's your life and your pain that they are enjoying. And it never stops and you are helpless to do anything ever to stop it. That's horror.

There was also hope. Hope in finding someone who could help me like my parents and my lawyer. And hope in meeting Joy, my psychologist, who was the first person who really understood what I was going through. Then I met Cindy, my therapist, who also really helped me with all the twists and turns with what I was feeling when I tried to make sense of my life and what had happened to me as a child and what is happening to me on the Internet. I felt lots of hope when my lawyer started collecting restitution to help me pay my bills and my therapist and for a car to drive to therapy and to just try to create some kind of 'normal' life. Things were getting better and better.

Then we started having problems with the restitution law. Judges sometimes gave me just $100 and sometimes nothing at all. A few judges really got it, like when I was at the Fifth Circuit oral argument two years ago and the judges agreed that the child sex abuse images of me really do cause ongoing and long-term harm. The article by Emily Bazelon in the New York Times also really helped to tell my story so that people can understand what it's like to live with child pornography every day of your life. I was really happy to discover recently that her article received honorable mention in a contest recognizing excellence in journalism.

After a long time and a lot of court hearings all over the country, my case was finally at the Supreme Court. I couldn't believe how long and how far my case and my story had gone until I was sitting there in the Supreme Court surrounded by so many of the people who have supported me and helped me during these years. To hear the justices discussing my case and my life was really overwhelming and gave me lots of hope not just for myself but for other victims like Vicky who I met for the first time right before the oral argument. I know there were other victims there too who are too afraid to speak out and too afraid to even think about what happened to them and what is happening to them online, on the Internet, because of their childhood sexual abuse and child pornography. I hoped that at last the very important people on the Supreme Court would decide that not just me, but all the victims like me—who were so young when all these horrible things happened to us—could get the restitution we need to try and live a life like everyone else.

All the justices were respectful and it was obvious that they had thought a lot about the issues. When the oral argument finished I was really hopeful that we would win the case. It felt good doing something this significant to make a difference in the world. It was a great feeling after so many years of just trying to get it right.

My hope turned to horror when the Court decided two weeks ago that restitution was ''impossible'' for victims like me and Vicky and so many others. I couldn't believe that something which is called mandatory restitution (twice) was so hard to figure out. It just seemed like something somewhere was missing. Why, if so many people are committing this serious crime, why are the victims of that crime, who are and were children after all, left out? The Court's decision was even worse than getting no restitution at all. It was sort of like getting negative restitution. It was a horrible day.

This is why I am so happy, and hopeful, that Congress can fix this problem once and for all. Maybe if they put mandatory in the law for a third time judges will get it that restitution really really really must be given to victims! After all this time and all the hearings and appeals and the Supreme Court, I definitely agree that restitution needs improvement and hopefully this bill, the Amy and Vicky Child Pornography Restitution Improvement Act of 2014, can finally make restitution happen for all victims of this horrible crime.

Thank you for supporting this law and working so hard to give victims the hope and help they need to overcome the nightmares and memories that most others will never know. Thank you Senator Hatch and Senator Schumer for making my hope real!

AMY (no longer) Unknown.

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''VICKY,'' C/O CAROL L. HEPBURN,
ATTORNEY AT LAW,
*Seattle, WA, May 3, 2014.*

Re Support for Amy and Vicky Child Pornography Restitution Improvement Act

Hon. ORRIN HATCH,
*Senator, U.S. Congress,*
*Washington DC.*

DEAR SENATOR HATCH: I am the subject of the ''Vicky'' series of child pornography images, which I have been told by law enforcement agents is one of the most widely traded in the world. I am writing to you under pseudonym, and through my attorney, because I have been stalked by pedophiles in the recent past and I am concerned that disclosure of my legal name and address could lead to further stalking.

I appreciate the Supreme Court's recent recognition in the Paroline decision of the pain and loss suffered by victims and the need for mandatory restitution. This upholds both the victim's need for compensation and helping the offender realize they have hurt an actual person. The difficult part of this decision is the immense amount of time and work investment that will be required by the victim to collect restitution, without the guarantee that they will ever collect the full amount to be made whole again. With each case in which the victim seeks restitution from someone who has possessed and/or distributed their images, there is an emotional cost just for being involved in the case. It brings up the painful reality of the victim's situation of never-ending humiliation and puts it right in the victim's face once again. This decision places on the victim the huge burden of several years of litigation without any promise of closure. This is a dismal prospect because it leaves victims like Amy and myself with the choice between not pursuing restitution (which would not provide us with the help we desperately need to heal) or continuing to have this painful part of our lives in our face on a regular basis for several more years, if not decades. Without any guidelines as to how the district courts will calculate restitution from each offender, I worry that the emotional toll may not be adequately compensated for in the end. I sincerely hope that Congress will take the time to create some guidelines for restitution for victims of child pornography possession and distribution that will protect the victim and enable them to receive full compensation.

I would be happy to talk with you about this at some later time. I am currently very pregnant and due to deliver my first child in two weeks. I respectfully ask that you support this legislation and do all that you can to see that it becomes law.

Very truly yours,

''VICKY''.

Mr. HATCH. Second, I wish to thank Amy and Vicky's legal team who were instrumental in developing this legislation. They include Professor Paul Cassell at the University of Utah School of Law, one of the leading authorities on criminal law in this country, and attorneys James Marsh of New York and Carol Hepburn in Seattle. Professor Cassell argued the Paroline case before the Supreme Court, and it is the experience of these tireless advocates that informed how to respond to that decision.

Third, I wish to thank the Senators on both sides of the aisle who join me in introducing this bill. In particular, I wish to recognize the senior Senator from New York Mr. SCHUMER who also signed on to the legal brief I filed in the Paroline case. We serve together on the Judiciary Committee, and he has long been a champion for crime victims.

I ask unanimous consent that an editorial from today's Washington Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 6, 2014]

CONGRESS NEEDS TO ACT TO ALLOW VICTIMS OF CHILD SEX ABUSE TO RECOVER RESTITUTION

(By Editorial Board)

''I am a 19 year old girl and I am a victim of child sex abuse and child pornography. I am still discovering all the ways that the abuse and exploitation I suffer has hurt me. . . .'' So began the victim impact statement of a young woman who was 8 when she was raped but whose abuse has never ended because the uncle who assaulted her took pictures that have been widely trafficked on the Internet. ''It is hard to describe what it feels like to know that at any moment, anywhere, someone is looking at pictures of me as a little girl being abused by my uncle and is getting some kind of sick enjoyment from it,'' she wrote.

The Supreme Court did not dispute her suffering nor her right to receive restitution from viewers who take pleasure in her abuse and create the sordid market demand for child pornography. But the court set aside the $3.4 million awarded her. Now Congress needs to fix the law.

The 5-to-4 ruling in Paroline v. United States is a double-edged sword for the advocates of child pornography victims. It upholds part of the Violence Against Women Act, which calls for restitution to victims such as ''Amy Unknown,'' as the woman is identified in court papers, but it limits the amount of damages proximate to the harm caused by a specific offender—a standard that puts the burden on the victim and makes it difficult to collect damages.

Doyle Randall Paroline, who pleaded guilty to possessing child pornography that included images of Amy, was ordered by an appeals court to pay all of the $3.4 million owed to Amy for the psychological damage and lost income she has suffered. The court's majority, in an opinion written by Justice Anthony M. Kennedy, ruled that Mr. Paroline should be assessed an amount that is not trivial but comports with ''the defendant's relative role in the causal process that underlies the victim's general losses.''

Justice Kennedy acknowledged that his approach ''is not without difficulties.'' How should a court calculate the harm caused by one person's possession of an image seen by thousands? Mathematically dividing the total amount by the number of estimated views produces an amount so small as to be insulting rather than therapeutic. What, in short, is the right number between zero and $3.4 million?

The justices are right in thinking that Congress should revisit the issue. Legislation set to be introduced Wednesday by Sens. Charles E. Schumer (D–N.Y.) and Orrin G. Hatch (R–Utah) seems to be a step in the right direction, with its outline of options for full victim recovery when multiple individuals are involved and giving multiple defendants who have banned the same victim the ability to sue each other to spread the cost of restitution. The court was clear in its opinion that ''the victim should someday collect restitution for all her child pornography losses.'' Congress needs to provide the tools to turn that someday into reality.

Mr. HATCH. It says that the Amy and Vicky Child Pornography Victim Restitution Improvement Act is ''a step in the right direction.''

I urge all of my colleagues to join us in enacting this legislation. It creates a practical process and recognizes the unique kind of harm caused by child pornography and requires restitution in a manner that will actually help victims.

In her letter, Amy writes that the legislation we are introducing today ''can finally make restitution happen for all victims of this horrible crime.''

Let's get it done.

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## AMENDMENTS SUBMITTED AND PROPOSED

SA 3010. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table.

SA 3011. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3012. Mrs. SHAHEEN (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 2262, supra.

SA 3013. Mr. McCONNELL (for himself, Mr. VITTER, and Mr. HOEVEN) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3014. Mr. COBURN (for himself, Mr. TOOMEY, and Mr. FLAKE) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3015. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3016. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3017. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3018. Mr. FLAKE (for himself, Mr. MCCAIN, and Mrs. FISCHER) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3019. Mr. FLAKE (for himself, Mr. TOOMEY, and Mrs. FISCHER) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3020. Mr. FLAKE (for himself, Mrs. FISCHER, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3021. Mr. FLAKE submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3022. Mr. BENNET (for himself, Mr. COBURN, Mr. CARPER, and Ms. AYOTTE) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3023. Mr. REID proposed an amendment to amendment SA 3012 submitted by Mrs. SHAHEEN (for herself and Mr. PORTMAN) to the bill S. 2262, supra.

SA 3024. Mr. REID proposed an amendment to amendment SA 3023 proposed by Mr. REID to the amendment SA 3012 submitted by Mrs. SHAHEEN (for herself and Mr. PORTMAN) to the bill S. 2262, supra.

SA 3025. Mr. REID proposed an amendment to the bill S. 2262, supra.

SA 3026. Mr. REID proposed an amendment to amendment SA 3025 proposed by Mr. REID to the bill S. 2262, supra.

SA 3027. Mr. REID proposed an amendment to the bill S. 2262, supra.

SA 3028. Mr. REID proposed an amendment to amendment SA 3027 proposed by Mr. REID to the bill S. 2262, supra.

SA 3029. Mr. REID proposed an amendment to amendment SA 3028 proposed by Mr. REID to the amendment SA 3027 proposed by Mr. REID to the bill S. 2262, supra.

SA 3030. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3031. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3032. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3033. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3034. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3035. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3036. Mr. TOOMEY (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3037. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3038. Mr. UDALL of Colorado (for himself, Mr. BEGICH, and Ms. HEITKAMP) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3039. Mr. UDALL of Colorado (for himself and Mr. MARKEY) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3040. Mr. UDALL of Colorado (for himself, Mr. BEGICH, and Ms. HEITKAMP) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3041. Ms. KLOBUCHAR (for herself and Mr. HOEVEN) submitted an amendment intended to be proposed by her to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3042. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3043. Mr. BROWN (for himself and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2262, supra; which was ordered to lie on the table.

SA 3044. Mr. REID (for Mr. PRYOR (for himself, Mr. COONS, Mr. BEGICH, and Mr. WYDEN)) submitted an amendment intended to be proposed by Mr. Reid, of NV to the bill S. 2262, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 3010.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

**SEC. _____. COMPLIANCE WITH LACEY ACT AMENDMENTS OF 1981.**

Section 5 of Public Law 112–237 (126 Stat. 1629) is amended by inserting after ''zebra mussels'' the following: ''and other fish, wildlife, and plants present in Lake Texoma that are prohibited under section 3 of such Act (16 U.S.C. 3372) or under section 42 of title 18, United States Code''.

**SA 3011.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the beginning of title V, insert the following:

**SEC. 5___. APPROVAL OF CERTAIN SETTLEMENTS UNDER ENDANGERED SPECIES ACT OF 1973.**

(a) DEFINITIONS.—Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by redesignating paragraphs (12) through (21) as paragraphs (13) through (22), respectively;

(2) by redesignating paragraphs (1) through (10) as paragraphs (2), (3), (4), (5), (7), (8), (9), (10), (11), and (12), respectively;

(3) by inserting before paragraph (2) (as so redesignated) the following:

''(1) AFFECTED PARTY.—The term 'affected party' means any person (including a business entity), or any State, tribal government, or local subdivision, the rights of which may be affected by a determination made under section 4(a) in an action brought under section 11(g)(1)(C).''; and

(4) by inserting after paragraph (5) (as so redesignated) the following:

''(6) COVERED SETTLEMENT.—The term 'covered settlement' means a consent decree or a settlement agreement in an action brought under section 11(g)(1)(C).''.

(b) INTERVENTION; APPROVAL OF COVERED SETTLEMENT.—Section 11(g) of the Endangered Species Act of 1973 (16 U.S.C. 1540(g)) is amended—

(1) in paragraph (3), by adding at the end the following:

''(C) PUBLISHING COMPLAINT; INTERVENTION.—

''(i) PUBLISHING COMPLAINT.—

''(I) IN GENERAL.—Not later than 30 days after the date on which the plaintiff serves the defendant with the complaint in an action brought under paragraph (1)(C) in accordance with Rule 4 of the Federal Rules of Civil Procedure, the Secretary of the Interior shall publish the complaint in a readily accessible manner, including electronically.

''(II) FAILURE TO MEET DEADLINE.—The failure of the Secretary to meet the 30-day deadline described in subclause (I) shall not be the basis for an action under paragraph (1)(C).

''(ii) INTERVENTION.—

''(I) IN GENERAL.—After the end of the 30-day period described in clause (i), each affected party shall be given a reasonable opportunity to move to intervene in the action described in clause (i), until the end of which a party may not file a motion for a consent decree or to dismiss the case pursuant to a settlement agreement.

''(II) REBUTTABLE PRESUMPTION.—In considering a motion to intervene by any affected party, the court shall presume, subject to rebuttal, that the interests of that affected party would not be represented adequately by the parties to the action described in clause (i).

''(III) REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION.—

''(aa) IN GENERAL.—If the court grants a motion to intervene in the action, the court shall refer the action to facilitate settlement discussions to—

''(AA) the mediation program of the court; or

''(BB) a magistrate judge.

''(bb) PARTIES INCLUDED IN SETTLEMENT DISCUSSIONS.—The settlement discussions described in item (aa) shall include each—

''(AA) plaintiff;

''(BB) defendant agency; and

''(CC) intervenor.'';

(2) by striking paragraph (4) and inserting the following:

''(4) LITIGATION COSTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the court, in issuing any final order in any action brought under paragraph (1), may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

''(B) COVERED SETTLEMENT.—

''(i) CONSENT DECREES.—The court shall not award costs of litigation in any proposed covered settlement that is a consent decree.

''(ii) OTHER COVERED SETTLEMENTS.—

''(I) IN GENERAL.—For a proposed covered settlement other than a consent decree, the court shall ensure that the covered settlement does not include payment to any plaintiff for the costs of litigation.

''(II) MOTIONS.—The court shall not grant any motion, including a motion to dismiss, based on the proposed covered settlement described in subclause (I) if the covered settlement includes payment to any plaintiff for the costs of litigation.''; and

(3) by adding at the end the following:

''(6) APPROVAL OF COVERED SETTLEMENT.—

''(A) DEFINITION OF SPECIES.—In this paragraph, the term 'species' means a species that is the subject of an action brought under paragraph (1)(C).

''(B) IN GENERAL.—

''(i) CONSENT DECREES.—The court shall not approve a proposed covered settlement that is a consent decree unless each State and county in which the Secretary of the Interior believes a species occurs approves the covered settlement.

''(ii) OTHER COVERED SETTLEMENTS.—

''(I) IN GENERAL.—For a proposed covered settlement other than a consent decree, the court shall ensure that the covered settlement is approved by each State and county in which the Secretary of the Interior believes a species occurs.

''(II) MOTIONS.—The court shall not grant any motion, including a motion to dismiss, based on the proposed covered settlement described in subclause (I) unless the covered settlement is approved by each State and county in which the Secretary of the Interior believes a species occurs.

''(C) NOTICE.—

''(i) IN GENERAL.—The Secretary of the Interior shall provide to each State and county in which the Secretary of the Interior believes a species occurs notice of a proposed covered settlement.

''(ii) DETERMINATION OF RELEVANT STATES AND COUNTIES.—The defendant in a covered settlement shall consult with each State described in clause (i) to determine each county in which the Secretary of the Interior believes a species occurs.

''(D) FAILURE TO RESPOND.—The court may approve a covered settlement or grant a motion described in subparagraph (B)(ii)(II) if, not later than 45 days after the date on which a State or county is notified under subparagraph (C)—

''(i)(I) a State or county fails to respond; and

''(II) of the States or counties that respond, each State or county approves the covered settlement; or

''(ii) all of the States and counties fail to respond.

''(E) PROOF OF APPROVAL.—The defendant in a covered settlement shall prove any State or county approval described in this paragraph in a form—

''(i) acceptable to the State or county, as applicable; and

''(ii) signed by the State or county official authorized to approve the covered settlement.''.

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**SA 3012.** Mrs. SHAHEEN (for herself and Mr. PORTMAN) submitted an amendment intended to be proposed by her to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Energy Savings and Industrial Competitiveness Act of 2014''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—BUILDINGS

Subtitle A—Building Energy Codes

Sec. 101. Greater energy efficiency in building codes.

Subtitle B—Worker Training and Capacity Building

Sec. 111. Building training and assessment centers.
Sec. 112. Career skills training.

Subtitle C—School Buildings

Sec. 121. Coordination of energy retrofitting assistance for schools.

Subtitle D—Better Buildings

Sec. 131. Energy efficiency in Federal and other buildings.
Sec. 132. Separate spaces with high-performance energy efficiency measures.
Sec. 133. Tenant star program.

Subtitle E—Energy Information for Commercial Buildings

Sec. 141. Energy information for commercial buildings.

TITLE II—INDUSTRIAL EFFICIENCY AND COMPETITIVENESS

Subtitle A—Manufacturing Energy Efficiency

Sec. 201. Purposes.
Sec. 202. Future of Industry program.
Sec. 203. Sustainable manufacturing initiative.
Sec. 204. Conforming amendments.

Subtitle B—Supply Star

Sec. 211. Supply Star.

Subtitle C—Electric Motor Rebate Program

Sec. 221. Energy saving motor control, electric motor, and advanced motor systems rebate program.

Subtitle D—Transformer Rebate Program

Sec. 231. Energy efficient transformer rebate program.

TITLE III—FEDERAL AGENCY ENERGY EFFICIENCY

Sec. 301. Energy-efficient and energy-saving information technologies.
Sec. 302. Availability of funds for design updates.
Sec. 303. Energy efficient data centers.
Sec. 304. Budget-neutral demonstration program for energy and water conservation improvements at multifamily residential units.

TITLE IV—REGULATORY PROVISIONS

Subtitle A—Third-party Certification Under Energy Star Program

Sec. 401. Third-party certification under Energy Star program.

Subtitle B—Federal Green Buildings

Sec. 411. High-performance green Federal buildings.

Subtitle C—Water Heaters

Sec. 421. Grid-enabled water heaters.

Subtitle D—Energy Performance Requirement for Federal Buildings

Sec. 431. Energy performance requirement for Federal buildings.
Sec. 432. Federal building energy efficiency performance standards; certification system and level for green buildings.
Sec. 433. Enhanced energy efficiency underwriting.

Subtitle E—Third Party Testing

Sec. 441. Voluntary certification programs for air conditioning, furnace, boiler, heat pump, and water heater products.

TITLE V—MISCELLANEOUS

Sec. 501. Offset.
Sec. 502. Budgetary effects.
Sec. 503. Advance appropriations required.

**SEC. 2. DEFINITION OF SECRETARY.**

In this Act, the term ''Secretary'' means the Secretary of Energy.

## TITLE I—BUILDINGS

### Subtitle A—Building Energy Codes

**SEC. 101. GREATER ENERGY EFFICIENCY IN BUILDING CODES.**

(a) DEFINITIONS.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended—

(1) by striking paragraph (14) and inserting the following:

''(14) MODEL BUILDING ENERGY CODE.—The term 'model building energy code' means a voluntary building energy code and standards developed and updated through a consensus process among interested persons, such as the IECC or the code used by—

''(A) the Council of American Building Officials, or its legal successor, International Code Council, Inc.;

''(B) the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; or

''(C) other appropriate organizations.''; and

(2) by adding at the end the following:

''(17) IECC.—The term 'IECC' means the International Energy Conservation Code.

''(18) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).''.

(b) STATE BUILDING ENERGY EFFICIENCY CODES.—Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

**''SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.**

''(a) IN GENERAL.—The Secretary shall—

''(1) encourage and support the adoption of building energy codes by States, Indian tribes, and, as appropriate, by local governments that meet or exceed the model building energy codes, or achieve equivalent or greater energy savings; and

''(2) support full compliance with the State and local codes.

''(b) STATE AND INDIAN TRIBE CERTIFICATION OF BUILDING ENERGY CODE UPDATES.—

''(1) REVIEW AND UPDATING OF CODES BY EACH STATE AND INDIAN TRIBE.—

''(A) IN GENERAL.—Not later than 2 years after the date on which a model building energy code is updated, each State or Indian tribe shall certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively.

''(B) DEMONSTRATION.—The certification shall include a demonstration of whether or not the energy savings for the code provisions that are in effect throughout the State or Indian tribal territory meet or exceed—

''(i) the energy savings of the updated model building energy code; or

''(ii) the targets established under section 307(b)(2).

''(C) NO MODEL BUILDING ENERGY CODE UPDATE.—If a model building energy code is not updated by a target date established under section 307(b)(2)(D), each State or Indian tribe shall, not later than 2 years after the specified date, certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively, to meet or exceed the target in section 307(b)(2).

''(2) VALIDATION BY SECRETARY.—Not later than 90 days after a State or Indian tribe certification under paragraph (1), the Secretary shall—

''(A) determine whether the code provisions of the State or Indian tribe, respectively, meet the criteria specified in paragraph (1); and

''(B) if the determination is positive, validate the certification.

''(c) IMPROVEMENTS IN COMPLIANCE WITH BUILDING ENERGY CODES.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—Not later than 3 years after the date of a certification under subsection (b), each State and Indian tribe shall certify whether or not the State and Indian tribe, respectively, has—

''(i) achieved full compliance under paragraph (3) with the applicable certified State and Indian tribe building energy code or with the associated model building energy code; or

''(ii) made significant progress under paragraph (4) toward achieving compliance with the applicable certified State and Indian tribe building energy code or with the associated model building energy code.

''(B) REPEAT CERTIFICATIONS.—If the State or Indian tribe certifies progress toward achieving compliance, the State or Indian tribe shall repeat the certification until the State or Indian tribe certifies that the State or Indian tribe has achieved full compliance, respectively.

''(2) MEASUREMENT OF COMPLIANCE.—A certification under paragraph (1) shall include documentation of the rate of compliance based on—

''(A) independent inspections of a random sample of the buildings covered by the code in the preceding year; or

''(B) an alternative method that yields an accurate measure of compliance.

''(3) ACHIEVEMENT OF COMPLIANCE.—A State or Indian tribe shall be considered to achieve full compliance under paragraph (1) if—

''(A) at least 90 percent of building space covered by the code in the preceding year substantially meets all the requirements of the applicable code specified in paragraph (1), or achieves equivalent or greater energy savings level; or

''(B) the estimated excess energy use of buildings that did not meet the applicable code specified in paragraph (1) in the preceding year, compared to a baseline of comparable buildings that meet this code, is not more than 5 percent of the estimated energy use of all buildings covered by this code during the preceding year.

''(4) SIGNIFICANT PROGRESS TOWARD ACHIEVEMENT OF COMPLIANCE.—A State or Indian tribe shall be considered to have made significant progress toward achieving compliance for purposes of paragraph (1) if the State or Indian tribe—

''(A) has developed and is implementing a plan for achieving compliance during the 8-year-period beginning on the date of enactment of this paragraph, including annual targets for compliance and active training and enforcement programs; and

''(B) has met the most recent target under subparagraph (A).

''(5) VALIDATION BY SECRETARY.—Not later than 90 days after a State or Indian tribe certification under paragraph (1), the Secretary shall—

''(A) determine whether the State or Indian tribe has demonstrated meeting the criteria of this subsection, including accurate measurement of compliance; and

''(B) if the determination is positive, validate the certification.

''(d) STATES OR INDIAN TRIBES THAT DO NOT ACHIEVE COMPLIANCE.—

''(1) REPORTING.—A State or Indian tribe that has not made a certification required under subsection (b) or (c) by the applicable deadline shall submit to the Secretary a report on—

''(A) the status of the State or Indian tribe with respect to meeting the requirements and submitting the certification; and

''(B) a plan for meeting the requirements and submitting the certification.

''(2) FEDERAL SUPPORT.—For any State or Indian tribe for which the Secretary has not validated a certification by a deadline under subsection (b) or (c), the lack of the certification may be a consideration for Federal support authorized under this section for code adoption and compliance activities.

''(3) LOCAL GOVERNMENT.—In any State or Indian tribe for which the Secretary has not validated a certification under subsection (b) or (c), a local government may be eligible for Federal support by meeting the certification requirements of subsections (b) and (c).

''(4) ANNUAL REPORTS BY SECRETARY.—

''(A) IN GENERAL.—The Secretary shall annually submit to Congress, and publish in the Federal Register, a report on—

''(i) the status of model building energy codes;

''(ii) the status of code adoption and compliance in the States and Indian tribes;

''(iii) implementation of this section; and

''(iv) improvements in energy savings over time as result of the targets established under section 307(b)(2).

''(B) IMPACTS.—The report shall include estimates of impacts of past action under this section, and potential impacts of further action, on—

''(i) upfront financial and construction costs, cost benefits and returns (using investment analysis), and lifetime energy use for buildings;

''(ii) resulting energy costs to individuals and businesses; and

''(iii) resulting overall annual building ownership and operating costs.

''(e) TECHNICAL ASSISTANCE TO STATES AND INDIAN TRIBES.—The Secretary shall provide technical assistance to States and Indian tribes to implement the goals and requirements of this section, including procedures and technical analysis for States and Indian tribes—

''(1) to improve and implement State residential and commercial building energy codes;

''(2) to demonstrate that the code provisions of the States and Indian tribes achieve equivalent or greater energy savings than the model building energy codes and targets;

''(3) to document the rate of compliance with a building energy code; and

''(4) to otherwise promote the design and construction of energy efficient buildings.

''(f) AVAILABILITY OF INCENTIVE FUNDING.—

''(1) IN GENERAL.—The Secretary shall provide incentive funding to States and Indian tribes—

''(A) to implement the requirements of this section;

''(B) to improve and implement residential and commercial building energy codes, including increasing and verifying compliance with the codes and training of State, tribal, and local building code officials to implement and enforce the codes; and

''(C) to promote building energy efficiency through the use of the codes.

''(2) ADDITIONAL FUNDING.—Additional funding shall be provided under this subsection for implementation of a plan to achieve and document full compliance with residential and commercial building energy codes under subsection (c)—

''(A) to a State or Indian tribe for which the Secretary has validated a certification under subsection (b) or (c); and

''(B) in a State or Indian tribe that is not eligible under subparagraph (A), to a local government that is eligible under this section.

''(3) TRAINING.—Of the amounts made available under this subsection, the State or Indian tribe may use amounts required, but not to exceed $750,000 for a State, to train State and local building code officials to implement and enforce codes described in paragraph (2).

''(4) LOCAL GOVERNMENTS.—States may share grants under this subsection with local governments that implement and enforce the codes.

''(g) STRETCH CODES AND ADVANCED STANDARDS.—

''(1) IN GENERAL.—The Secretary shall provide technical and financial support for the development of stretch codes and advanced standards for residential and commercial buildings for use as—

''(A) an option for adoption as a building energy code by local, tribal, or State governments; and

''(B) guidelines for energy-efficient building design.

''(2) TARGETS.—The stretch codes and advanced standards shall be designed—

''(A) to achieve substantial energy savings compared to the model building energy codes; and

''(B) to meet targets under section 307(b), if available, at least 3 to 6 years in advance of the target years.

''(h) STUDIES.—The Secretary, in consultation with building science experts from the National Laboratories and institutions of higher education, designers and builders of energy-efficient residential and commercial buildings, code officials, and other stakeholders, shall undertake a study of the feasibility, impact, economics, and merit of—

''(1) code improvements that would require that buildings be designed, sited, and constructed in a manner that makes the buildings more adaptable in the future to become zero-net-energy after initial construction, as advances are achieved in energy-saving technologies;

''(2) code procedures to incorporate measured lifetimes, not just first-year energy use, in trade-offs and performance calculations; and

''(3) legislative options for increasing energy savings from building energy codes, including additional incentives for effective State and local action, and verification of compliance with and enforcement of a code other than by a State or local government.

''(i) EFFECT ON OTHER LAWS.—Nothing in this section or section 307 supersedes or modifies the application of sections 321 through 346 of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.).

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section and section 307 $200,000,000, to remain available until expended.''.

(c) FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.—Section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) is amended by striking ''voluntary building energy code'' each place it appears in subsections (a)(2)(B) and (b) and inserting ''model building energy code''.

(d) MODEL BUILDING ENERGY CODES.—Section 307 of the Energy Conservation and Production Act (42 U.S.C. 6836) is amended to read as follows:

**''SEC. 307. SUPPORT FOR MODEL BUILDING ENERGY CODES.**

''(a) IN GENERAL.—The Secretary shall support the updating of model building energy codes.

''(b) TARGETS.—

''(1) IN GENERAL.—The Secretary shall support the updating of the model building energy codes to enable the achievement of aggregate energy savings targets established under paragraph (2).

''(2) TARGETS.—

''(A) IN GENERAL.—The Secretary shall work with State, Indian tribes, local governments, nationally recognized code and standards developers, and other interested parties to support the updating of model building energy codes by establishing one or more aggregate energy savings targets to achieve the purposes of this section.

''(B) SEPARATE TARGETS.—The Secretary may establish separate targets for commercial and residential buildings.

''(C) BASELINES.—The baseline for updating model building energy codes shall be the 2009 IECC for residential buildings and ASHRAE Standard 90.1–2010 for commercial buildings.

''(D) SPECIFIC YEARS.—

''(i) IN GENERAL.—Targets for specific years shall be established and revised by the Secretary through rulemaking and coordinated with nationally recognized code and standards developers at a level that—

''(I) is at the maximum level of energy efficiency that is technologically feasible and life-cycle cost effective, while accounting for the economic considerations under paragraph (4);

''(II) is higher than the preceding target; and

''(III) promotes the achievement of commercial and residential high-performance buildings through high performance energy efficiency (within the meaning of section 401 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061)).

''(ii) INITIAL TARGETS.—Not later than 1 year after the date of enactment of this clause, the Secretary shall establish initial targets under this subparagraph.

''(iii) DIFFERENT TARGET YEARS.—Subject to clause (i), prior to the applicable year, the Secretary may set a later target year for any of the model building energy codes described in subparagraph (A) if the Secretary determines that a target cannot be met.

''(iv) SMALL BUSINESS.—When establishing targets under this paragraph through rulemaking, the Secretary shall ensure compliance with the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note; Public Law 104–121).

''(3) APPLIANCE STANDARDS AND OTHER FACTORS AFFECTING BUILDING ENERGY USE.—In establishing building code targets under paragraph (2), the Secretary shall develop and adjust the targets in recognition of potential savings and costs relating to—

''(A) efficiency gains made in appliances, lighting, windows, insulation, and building envelope sealing;

''(B) advancement of distributed generation and on-site renewable power generation technologies;

''(C) equipment improvements for heating, cooling, and ventilation systems;

''(D) building management systems and SmartGrid technologies to reduce energy use; and

''(E) other technologies, practices, and building systems that the Secretary considers appropriate regarding building plug load and other energy uses.

''(4) ECONOMIC CONSIDERATIONS.—In establishing and revising building code targets under paragraph (2), the Secretary shall consider the economic feasibility of achieving the proposed targets established under this section and the potential costs and savings for consumers and building owners, including a return on investment analysis.

''(c) TECHNICAL ASSISTANCE TO MODEL BUILDING ENERGY CODE-SETTING AND STANDARD DEVELOPMENT ORGANIZATIONS.—

''(1) IN GENERAL.—The Secretary shall, on a timely basis, provide technical assistance to model building energy code-setting and standard development organizations consistent with the goals of this section.

''(2) ASSISTANCE.—The assistance shall include, as requested by the organizations, technical assistance in—

''(A) evaluating code or standards proposals or revisions;

''(B) building energy analysis and design tools;

''(C) building demonstrations;

''(D) developing definitions of energy use intensity and building types for use in model building energy codes to evaluate the efficiency impacts of the model building energy codes;

''(E) performance-based standards;

''(F) evaluating economic considerations under subsection (b)(4); and

''(G) developing model building energy codes by Indian tribes in accordance with tribal law.

''(3) AMENDMENT PROPOSALS.—The Secretary may submit timely model building energy code amendment proposals to the model building energy code-setting and standard development organizations, with supporting evidence, sufficient to enable the model building energy codes to meet the targets established under subsection (b)(2).

''(4) ANALYSIS METHODOLOGY.—The Secretary shall make publicly available the entire calculation methodology (including input assumptions and data) used by the Secretary to estimate the energy savings of code or standard proposals and revisions.

''(d) DETERMINATION.—

''(1) REVISION OF MODEL BUILDING ENERGY CODES.—If the provisions of the IECC or ASHRAE Standard 90.1 regarding building energy use are revised, the Secretary shall make a preliminary determination not later than 90 days after the date of the revision, and a final determination not later than 15 months after the date of the revision, on whether or not the revision will—

''(A) improve energy efficiency in buildings compared to the existing model building energy code; and

''(B) meet the applicable targets under subsection (b)(2).

''(2) CODES OR STANDARDS NOT MEETING TARGETS.—

''(A) IN GENERAL.—If the Secretary makes a preliminary determination under paragraph (1)(B) that a code or standard does not meet the targets established under subsection (b)(2), the Secretary may at the same time provide the model building energy code or standard developer with proposed changes that would result in a model building energy code that meets the targets and with supporting evidence, taking into consideration—

''(i) whether the modified code is technically feasible and life-cycle cost effective;

''(ii) available appliances, technologies, materials, and construction practices; and

''(iii) the economic considerations under subsection (b)(4).

''(B) INCORPORATION OF CHANGES.—

''(i) IN GENERAL.—On receipt of the proposed changes, the model building energy code or standard developer shall have an additional 270 days to accept or reject the proposed changes of the Secretary to the model building energy code or standard for the Secretary to make a final determination.

''(ii) FINAL DETERMINATION.—A final determination under paragraph (1) shall be on the modified model building energy code or standard.

''(e) ADMINISTRATION.—In carrying out this section, the Secretary shall—

''(1) publish notice of targets and supporting analysis and determinations under this section in the Federal Register to provide an explanation of and the basis for such actions, including any supporting modeling, data, assumptions, protocols, and cost-benefit analysis, including return on investment; and

''(2) provide an opportunity for public comment on targets and supporting analysis and determinations under this section.

''(f) VOLUNTARY CODES AND STANDARDS.—Notwithstanding any other provision of this section, any model building code or standard established under section 304 shall not be binding on a State, local government, or Indian tribe as a matter of Federal law.''.

## Subtitle B—Worker Training and Capacity Building

### SEC. 111. BUILDING TRAINING AND ASSESSMENT CENTERS.

(a) IN GENERAL.—The Secretary shall provide grants to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) and Tribal Colleges or Universities (as defined in section 316(b) of that Act (20 U.S.C. 1059c(b))) to establish building training and assessment centers—

(1) to identify opportunities for optimizing energy efficiency and environmental performance in buildings;

(2) to promote the application of emerging concepts and technologies in commercial and institutional buildings;

(3) to train engineers, architects, building scientists, building energy permitting and enforcement officials, and building technicians in energy-efficient design and operation;

(4) to assist institutions of higher education and Tribal Colleges or Universities in training building technicians;

(5) to promote research and development for the use of alternative energy sources and distributed generation to supply heat and power for buildings, particularly energy-intensive buildings; and

(6) to coordinate with and assist State-accredited technical training centers, community colleges, Tribal Colleges or Universities, and local offices of the National Institute of Food and Agriculture and ensure appropriate services are provided under this section to each region of the United States.

(b) COORDINATION AND NONDUPLICATION.—

(1) IN GENERAL.—The Secretary shall coordinate the program with the industrial research and assessment centers program and with other Federal programs to avoid duplication of effort.

(2) COLLOCATION.—To the maximum extent practicable, building, training, and assessment centers established under this section shall be collocated with Industrial Assessment Centers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000, to remain available until expended.

### SEC. 112. CAREER SKILLS TRAINING.

(a) IN GENERAL.—The Secretary shall pay grants to eligible entities described in subsection (b) to pay the Federal share of associated career skills training programs under which students concurrently receive classroom instruction and on-the-job training for the purpose of obtaining an industry-related certification to install energy efficient buildings technologies, including technologies described in section 307(b)(3) of the Energy Conservation and Production Act (42 U.S.C. 6836(b)(3)).

(b) ELIGIBILITY.—To be eligible to obtain a grant under subsection (a), an entity shall be a nonprofit partnership described in section 171(e)(2)(B)(ii) of the Workforce Investment Act of 1998 (29 U.S.C. 2916(e)(2)(B)(ii)).

(c) FEDERAL SHARE.—The Federal share of the cost of carrying out a career skills training program described in subsection (a) shall be 50 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000, to remain available until expended.

## Subtitle C—School Buildings

### SEC. 121. COORDINATION OF ENERGY RETROFITTING ASSISTANCE FOR SCHOOLS.

(a) DEFINITION OF SCHOOL.—In this section, the term ''school'' means—

(1) an elementary school or secondary school (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));

(2) an institution of higher education (as defined in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a));

(3) a school of the defense dependents' education system under the Defense Dependents'

Education Act of 1978 (20 U.S.C. 921 et seq.) or established under section 2164 of title 10, United States Code;

(4) a school operated by the Bureau of Indian Affairs;

(5) a tribally controlled school (as defined in section 5212 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2511)); and

(6) a Tribal College or University (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))).

(b) DESIGNATION OF LEAD AGENCY.—The Secretary, acting through the Office of Energy Efficiency and Renewable Energy, shall act as the lead Federal agency for coordinating and disseminating information on existing Federal programs and assistance that may be used to help initiate, develop, and finance energy efficiency, renewable energy, and energy retrofitting projects for schools.

(c) REQUIREMENTS.—In carrying out coordination and outreach under subsection (b), the Secretary shall—

(1) in consultation and coordination with the appropriate Federal agencies, carry out a review of existing programs and financing mechanisms (including revolving loan funds and loan guarantees) available in or from the Department of Agriculture, the Department of Energy, the Department of Education, the Department of the Treasury, the Internal Revenue Service, the Environmental Protection Agency, and other appropriate Federal agencies with jurisdiction over energy financing and facilitation that are currently used or may be used to help initiate, develop, and finance energy efficiency, renewable energy, and energy retrofitting projects for schools;

(2) establish a Federal cross-departmental collaborative coordination, education, and outreach effort to streamline communication and promote available Federal opportunities and assistance described in paragraph (1), for energy efficiency, renewable energy, and energy retrofitting projects that enables States, local educational agencies, and schools—

(A) to use existing Federal opportunities more effectively; and

(B) to form partnerships with Governors, State energy programs, local educational, financial, and energy officials, State and local government officials, nonprofit organizations, and other appropriate entities, to support the initiation of the projects;

(3) provide technical assistance for States, local educational agencies, and schools to help develop and finance energy efficiency, renewable energy, and energy retrofitting projects—

(A) to increase the energy efficiency of buildings or facilities;

(B) to install systems that individually generate energy from renewable energy resources;

(C) to establish partnerships to leverage economies of scale and additional financing mechanisms available to larger clean energy initiatives; or

(D) to promote—

(i) the maintenance of health, environmental quality, and safety in schools, including the ambient air quality, through energy efficiency, renewable energy, and energy retrofit projects; and

(ii) the achievement of expected energy savings and renewable energy production through proper operations and maintenance practices;

(4) develop and maintain a single online resource Web site with contact information for relevant technical assistance and support staff in the Office of Energy Efficiency and Renewable Energy for States, local educational agencies, and schools to effectively access and use Federal opportunities and assistance described in paragraph (1) to develop energy efficiency, renewable energy, and energy retrofitting projects; and

(5) establish a process for recognition of schools that—

(A) have successfully implemented energy efficiency, renewable energy, and energy retrofitting projects; and

(B) are willing to serve as resources for other local educational agencies and schools to assist initiation of similar efforts.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the implementation of this section.

## Subtitle D—Better Buildings

### SEC. 131. ENERGY EFFICIENCY IN FEDERAL AND OTHER BUILDINGS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(2) COST-EFFECTIVE ENERGY EFFICIENCY MEASURE.—The terms ''cost-effective energy efficiency measure'' and ''measure'' mean any building product, material, equipment, or service and the installing, implementing, or operating thereof, that provides energy savings in an amount that is not less than the cost of such installing, implementing, or operating.

(b) MODEL PROVISIONS, POLICIES, AND BEST PRACTICES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary and after providing the public with an opportunity for notice and comment, shall develop model leasing provisions and best practices in accordance with this subsection.

(2) COMMERCIAL LEASING.—

(A) IN GENERAL.—The model commercial leasing provisions developed under this subsection shall, at a minimum, align the interests of building owners and tenants with regard to investments in cost-effective energy efficiency measures to encourage building owners and tenants to collaborate to invest in such measures.

(B) USE OF MODEL PROVISIONS.—The Administrator may use the model provisions developed under this subsection in any standard leasing document that designates a Federal agency (or other client of the Administrator) as a landlord or tenant.

(C) PUBLICATION.—The Administrator shall periodically publish the model leasing provisions developed under this subsection, along with explanatory materials, to encourage building owners and tenants in the private sector to use such provisions and materials.

(3) REALTY SERVICES.—The Administrator shall develop policies and practices to implement cost-effective energy efficiency measures for the realty services provided by the Administrator to Federal agencies (or other clients of the Administrator), including periodic training of appropriate Federal employees and contractors on how to identify and evaluate those measures.

(4) STATE AND LOCAL ASSISTANCE.—The Administrator, in consultation with the Secretary, shall make available model leasing provisions and best practices developed under this subsection to State, county, and municipal governments to manage owned and leased building space in accordance with the goal of encouraging investment in all cost-effective energy efficiency measures.

### SEC. 132. SEPARATE SPACES WITH HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURES.

Subtitle B of title IV of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081 et seq.) is amended by adding at the end the following:

### ''SEC. 424. SEPARATE SPACES WITH HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURES.

''(a) DEFINITIONS.—In this section:

''(1) HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURE.—The term 'high-performance energy efficiency measure' means a technology, product, or practice that will result in substantial operational cost savings by reducing energy consumption and utility costs.

''(2) SEPARATE SPACES.—The term 'separate spaces' means areas within a commercial building that are leased or otherwise occupied by a tenant or other occupant for a period of time pursuant to the terms of a written agreement.

''(b) STUDY.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Assistant Secretary of Energy Efficiency and Renewable Energy, shall complete a study on the feasibility of—

''(A) significantly improving energy efficiency in commercial buildings through the design and construction, by owners and tenants, of separate spaces with high-performance energy efficiency measures; and

''(B) encouraging owners and tenants to implement high-performance energy efficiency measures in separate spaces.

''(2) SCOPE.—The study shall, at a minimum, include—

''(A) descriptions of—

''(i) high-performance energy efficiency measures that should be considered as part of the initial design and construction of separate spaces;

''(ii) processes that owners, tenants, architects, and engineers may replicate when designing and constructing separate spaces with high-performance energy efficiency measures;

''(iii) policies and best practices to achieve reductions in energy intensities for lighting, plug loads, heating, cooling, cooking, laundry, and other systems to satisfy the needs of the commercial building tenant;

''(iv) return on investment and payback analyses of the incremental cost and projected energy savings of the proposed set of high-performance energy efficiency measures, including consideration of available incentives;

''(v) models and simulation methods that predict the quantity of energy used by separate spaces with high-performance energy efficiency measures and that compare that predicted quantity to the quantity of energy used by separate spaces without high-performance energy efficiency measures but that otherwise comply with applicable building code requirements;

''(vi) measurement and verification platforms demonstrating actual energy use of high-performance energy efficiency measures installed in separate spaces, and whether such measures generate the savings intended in the initial design and construction of the separate spaces;

''(vii) best practices that encourage an integrated approach to designing and constructing separate spaces to perform at optimum energy efficiency in conjunction with the central systems of a commercial building; and

''(viii) any impact on employment resulting from the design and construction of separate spaces with high-performance energy efficiency measures; and

''(B) case studies reporting economic and energy saving returns in the design and construction of separate spaces with high-performance energy efficiency measures.

''(3) PUBLIC PARTICIPATION.—Not later than 90 days after the date of the enactment of this section, the Secretary shall publish a notice in the Federal Register requesting

public comments regarding effective methods, measures, and practices for the design and construction of separate spaces with high-performance energy efficiency measures.

''(4) PUBLICATION.—The Secretary shall publish the study on the website of the Department of Energy.''.

**SEC. 133. TENANT STAR PROGRAM.**

Subtitle B of title IV of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081 et seq.) (as amended by section 132) is amended by adding at the end the following:

**''SEC. 425. TENANT STAR PROGRAM.**

''(a) DEFINITIONS.—In this section:

''(1) HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURE.—The term 'high-performance energy efficiency measure' has the meaning given the term in section 424.

''(2) SEPARATE SPACES.—The term 'separate spaces' has the meaning given the term in section 424.

''(b) TENANT STAR.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall develop a voluntary program within the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a), which may be known as Tenant Star, to promote energy efficiency in separate spaces leased by tenants or otherwise occupied within commercial buildings.

''(c) EXPANDING SURVEY DATA.—The Secretary of Energy, acting through the Administrator of the Energy Information Administration, shall—

''(1) collect, through each Commercial Buildings Energy Consumption Survey of the Energy Information Administration that is conducted after the date of enactment of this section, data on—

''(A) categories of building occupancy that are known to consume significant quantities of energy, such as occupancy by data centers, trading floors, and restaurants; and

''(B) other aspects of the property, building operation, or building occupancy determined by the Administrator of the Energy Information Administration, in consultation with the Administrator of the Environmental Protection Agency, to be relevant in lowering energy consumption;

''(2) with respect to the first Commercial Buildings Energy Consumption Survey conducted after the date of enactment of this section, to the extent full compliance with the requirements of paragraph (1) is not feasible, conduct activities to develop the capability to collect such data and begin to collect such data; and

''(3) make data collected under paragraphs (1) and (2) available to the public in aggregated form and provide such data, and any associated results, to the Administrator of the Environmental Protection Agency for use in accordance with subsection (d).

''(d) RECOGNITION OF OWNERS AND TENANTS.—

''(1) OCCUPANCY-BASED RECOGNITION.—Not later than 1 year after the date on which sufficient data is received pursuant to subsection (c), the Administrator of the Environmental Protection Agency shall, following an opportunity for public notice and comment—

''(A) in a manner similar to the Energy Star rating system for commercial buildings, develop policies and procedures to recognize tenants in commercial buildings that voluntarily achieve high levels of energy efficiency in separate spaces;

''(B) establish building occupancy categories eligible for Tenant Star recognition based on the data collected under subsection (c) and any other appropriate data sources; and

''(C) consider other forms of recognition for commercial building tenants or other occupants that lower energy consumption in separate spaces.

''(2) DESIGN- AND CONSTRUCTION-BASED RECOGNITION.—After the study required by section 424(b) is completed, the Administrator of the Environmental Protection Agency, in consultation with the Secretary and following an opportunity for public notice and comment, may develop a voluntary program to recognize commercial building owners and tenants that use high-performance energy efficiency measures in the design and construction of separate spaces.''.

**Subtitle E—Energy Information for Commercial Buildings**

**SEC. 141. ENERGY INFORMATION FOR COMMERCIAL BUILDINGS.**

(a) REQUIREMENT OF BENCHMARKING AND DISCLOSURE FOR LEASING BUILDINGS WITHOUT ENERGY STAR LABELS.—Section 435(b)(2) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17091(b)(2)) is amended—

(1) by striking ''paragraph (2)'' and inserting ''paragraph (1)''; and

(2) by striking ''signing the contract,'' and all that follows through the period at the end and inserting the following:

''signing the contract, the following requirements are met:

''(A) The space is renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.

''(B)(i) Subject to clause (ii), the space is benchmarked under a nationally recognized, online, free benchmarking program, with public disclosure, unless the space is a space for which owners cannot access whole building utility consumption data, including spaces—

''(I) that are located in States with privacy laws that provide that utilities shall not provide such aggregated information to multitenant building owners; and

''(II) for which tenants do not provide energy consumption information to the commercial building owner in response to a request from the building owner.

''(ii) A Federal agency that is a tenant of the space shall provide to the building owner, or authorize the owner to obtain from the utility, the energy consumption information of the space for the benchmarking and disclosure required by this subparagraph.''.

(b) DEPARTMENT OF ENERGY STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a study, with opportunity for public comment—

(A) on the impact of—

(i) State and local performance benchmarking and disclosure policies, and any associated building efficiency policies, for commercial and multifamily buildings; and

(ii) programs and systems in which utilities provide aggregated information regarding whole building energy consumption and usage information to owners of multitenant commercial, residential, and mixed-use buildings;

(B) that identifies best practice policy approaches studied under subparagraph (A) that have resulted in the greatest improvements in building energy efficiency; and

(C) that considers—

(i) compliance rates and the benefits and costs of the policies and programs on building owners, utilities, tenants, and other parties;

(ii) utility practices, programs, and systems that provide aggregated energy consumption information to multitenant building owners, and the impact of public utility commissions and State privacy laws on those practices, programs, and systems;

(iii) exceptions to compliance in existing laws where building owners are not able to gather or access whole building energy information from tenants or utilities;

(iv) the treatment of buildings with—

(I) multiple uses;

(II) uses for which baseline information is not available; and

(III) uses that require high levels of energy intensities, such as data centers, trading floors, and televisions studios;

(v) implementation practices, including disclosure methods and phase-in of compliance;

(vi) the safety and security of benchmarking tools offered by government agencies, and the resiliency of those tools against cyber-attacks; and

(vii) international experiences with regard to building benchmarking and disclosure laws and data aggregation for multitenant buildings.

(2) SUBMISSION TO CONGRESS.—At the conclusion of the study, the Secretary shall submit to Congress a report on the results of the study.

(c) CREATION AND MAINTENANCE OF DATABASES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act and following opportunity for public notice and comment, the Secretary, in coordination with other relevant agencies shall, to carry out the purpose described in paragraph (2)—

(A) assess existing databases; and

(B) as necessary—

(i) modify and maintain existing databases; or

(ii) create and maintain a new database platform.

(2) PURPOSE.—The maintenance of existing databases or creation of a new database platform under paragraph (1) shall be for the purpose of storing and making available public energy-related information on commercial and multifamily buildings, including—

(A) data provided under Federal, State, local, and other laws or programs regarding building benchmarking and energy information disclosure;

(B) buildings that have received energy ratings and certifications; and

(C) energy-related information on buildings provided voluntarily by the owners of the buildings, in an anonymous form, unless the owner provides otherwise.

(d) COMPETITIVE AWARDS.—Based on the results of the research for the portion of the study described in subsection (b)(1)(A)(ii), and with criteria developed following public notice and comment, the Secretary may make competitive awards to utilities, utility regulators, and utility partners to develop and implement effective and promising programs to provide aggregated whole building energy consumption information to multitenant building owners.

(e) INPUT FROM STAKEHOLDERS.—The Secretary shall seek input from stakeholders to maximize the effectiveness of the actions taken under this section.

(f) REPORT.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall submit to Congress a report on the progress made in complying with this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (b) $2,500,000 for each of fiscal years 2014 through 2018, to remain available until expended.

## TITLE II—INDUSTRIAL EFFICIENCY AND COMPETITIVENESS

### Subtitle A—Manufacturing Energy Efficiency

**SEC. 201. PURPOSES.**

The purposes of this subtitle are—

(1) to reform and reorient the industrial efficiency programs of the Department of Energy;

(2) to establish a clear and consistent authority for industrial efficiency programs of the Department;

(3) to accelerate the deployment of technologies and practices that will increase industrial energy efficiency and improve productivity;

(4) to accelerate the development and demonstration of technologies that will assist the deployment goals of the industrial efficiency programs of the Department and increase manufacturing efficiency;

(5) to stimulate domestic economic growth and improve industrial productivity and competitiveness; and

(6) to strengthen partnerships between Federal and State governmental agencies and the private and academic sectors.

**SEC. 202. FUTURE OF INDUSTRY PROGRAM.**

(a) IN GENERAL.—Section 452 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111) is amended by striking the section heading and inserting the following: ''**FUTURE OF INDUSTRY PROGRAM**''.

(b) DEFINITION OF ENERGY SERVICE PROVIDER.—Section 452(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(a)) is amended—

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (2):

''(3) ENERGY SERVICE PROVIDER.—The term 'energy service provider' means any business providing technology or services to improve the energy efficiency, power factor, or load management of a manufacturing site or other industrial process in an energy-intensive industry, or any utility operating under a utility energy service project.''.

(c) INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.—Section 452(e) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111(e)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting appropriately;

(2) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(3) in subparagraph (A) (as redesignated by paragraph (1)), by inserting before the semicolon at the end the following: '', including assessments of sustainable manufacturing goals and the implementation of information technology advancements for supply chain analysis, logistics, system monitoring, industrial and manufacturing processes, and other purposes''; and

(4) by adding at the end the following:

''(2) COORDINATION.—

''(A) IN GENERAL.—To increase the value and capabilities of the industrial research and assessment centers, the centers shall—

''(i) coordinate with Manufacturing Extension Partnership Centers of the National Institute of Standards and Technology;

''(ii) coordinate with the Building Technologies Program of the Department of Energy to provide building assessment services to manufacturers;

''(iii) increase partnerships with the National Laboratories of the Department of Energy to leverage the expertise and technologies of the National Laboratories for national industrial and manufacturing needs;

''(iv) increase partnerships with energy service providers and technology providers to leverage private sector expertise and accelerate deployment of new and existing technologies and processes for energy efficiency, power factor, and load management;

''(v) identify opportunities for reducing greenhouse gas emissions; and

''(vi) promote sustainable manufacturing practices for small- and medium-sized manufacturers.

''(3) OUTREACH.—The Secretary shall provide funding for—

''(A) outreach activities by the industrial research and assessment centers to inform small- and medium-sized manufacturers of the information, technologies, and services available; and

''(B) coordination activities by each industrial research and assessment center to leverage efforts with—

''(i) Federal and State efforts;

''(ii) the efforts of utilities and energy service providers;

''(iii) the efforts of regional energy efficiency organizations; and

''(iv) the efforts of other industrial research and assessment centers.

''(4) WORKFORCE TRAINING.—

''(A) IN GENERAL.—The Secretary shall pay the Federal share of associated internship programs under which students work with or for industries, manufacturers, and energy service providers to implement the recommendations of industrial research and assessment centers.

''(B) FEDERAL SHARE.—The Federal share of the cost of carrying out internship programs described in subparagraph (A) shall be 50 percent.

''(5) SMALL BUSINESS LOANS.—The Administrator of the Small Business Administration shall, to the maximum extent practicable, expedite consideration of applications from eligible small business concerns for loans under the Small Business Act (15 U.S.C. 631 et seq.) to implement recommendations of industrial research and assessment centers established under paragraph (1).

''(6) ADVANCED MANUFACTURING STEERING COMMITTEE.—The Secretary shall establish an advisory steering committee to provide recommendations to the Secretary on planning and implementation of the Advanced Manufacturing Office of the Department of Energy.''.

**SEC. 203. SUSTAINABLE MANUFACTURING INITIATIVE.**

(a) IN GENERAL.—Part E of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341) is amended by adding at the end the following:

**''SEC. 376. SUSTAINABLE MANUFACTURING INITIATIVE.**

''(a) IN GENERAL.—As part of the Office of Energy Efficiency and Renewable Energy, the Secretary, on the request of a manufacturer, shall conduct onsite technical assessments to identify opportunities for—

''(1) maximizing the energy efficiency of industrial processes and cross-cutting systems;

''(2) preventing pollution and minimizing waste;

''(3) improving efficient use of water in manufacturing processes;

''(4) conserving natural resources; and

''(5) achieving such other goals as the Secretary determines to be appropriate.

''(b) COORDINATION.—The Secretary shall carry out the initiative in coordination with the private sector and appropriate agencies, including the National Institute of Standards and Technology, to accelerate adoption of new and existing technologies and processes that improve energy efficiency.

''(c) RESEARCH AND DEVELOPMENT PROGRAM FOR SUSTAINABLE MANUFACTURING AND INDUSTRIAL TECHNOLOGIES AND PROCESSES.—As part of the industrial efficiency programs of the Department of Energy, the Secretary shall carry out a joint industry-government partnership program to research, develop, and demonstrate new sustainable manufacturing and industrial technologies and processes that maximize the energy efficiency of industrial plants, reduce pollution, and conserve natural resources.''.

(b) TABLE OF CONTENTS.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by adding at the end of the items relating to part E of title III the following:

''Sec. 376. Sustainable manufacturing initiative.''.

**SEC. 204. CONFORMING AMENDMENTS.**

(a) Section 106 of the Energy Policy Act of 2005 (42 U.S.C. 15811) is repealed.

(b) Sections 131, 132, 133, 2103, and 2107 of the Energy Policy Act of 1992 (42 U.S.C. 6348, 6349, 6350, 13453, 13456) are repealed.

(c) Section 2101(a) of the Energy Policy Act of 1992 (42 U.S.C. 13451(a)) is amended in the third sentence by striking ''sections 2102, 2103, 2104, 2105, 2106, 2107, and 2108'' and inserting ''sections 2102, 2104, 2105, 2106, and 2108 of this Act and section 376 of the Energy Policy and Conservation Act,''.

### Subtitle B—Supply Star

**SEC. 211. SUPPLY STAR.**

The Energy Policy and Conservation Act is amended by inserting after section 324A (42 U.S.C. 6294a) the following:

**''SEC. 324B. SUPPLY STAR PROGRAM.**

''(a) IN GENERAL.—There is established within the Department of Energy a Supply Star program to identify and promote practices, recognize companies, and, as appropriate, recognize products that use highly efficient supply chains in a manner that conserves energy, water, and other resources.

''(b) COORDINATION.—In carrying out the program described in subsection (a), the Secretary shall—

''(1) consult with other appropriate agencies; and

''(2) coordinate efforts with the Energy Star program established under section 324A.

''(c) DUTIES.—In carrying out the Supply Star program described in subsection (a), the Secretary shall—

''(1) promote practices, recognize companies, and, as appropriate, recognize products that comply with the Supply Star program as the preferred practices, companies, and products in the marketplace for maximizing supply chain efficiency;

''(2) work to enhance industry and public awareness of the Supply Star program;

''(3) collect and disseminate data on supply chain energy resource consumption;

''(4) develop and disseminate metrics, processes, and analytical tools (including software) for evaluating supply chain energy resource use;

''(5) develop guidance at the sector level for improving supply chain efficiency;

''(6) work with domestic and international organizations to harmonize approaches to analyzing supply chain efficiency, including the development of a consistent set of tools, templates, calculators, and databases; and

''(7) work with industry, including small businesses, to improve supply chain efficiency through activities that include—

''(A) developing and sharing best practices; and

''(B) providing opportunities to benchmark supply chain efficiency.

''(d) EVALUATION.—In any evaluation of supply chain efficiency carried out by the Secretary with respect to a specific product, the Secretary shall consider energy consumption and resource use throughout the entire lifecycle of a product, including production, transport, packaging, use, and disposal.

''(e) GRANTS AND INCENTIVES.—

''(1) IN GENERAL.—The Secretary may award grants or other forms of incentives on a competitive basis to eligible entities, as determined by the Secretary, for the purposes of—

''(A) studying supply chain energy resource efficiency; and

''(B) demonstrating and achieving reductions in the energy resource consumption of commercial products through changes and improvements to the production supply and distribution chain of the products.

''(2) USE OF INFORMATION.—Any information or data generated as a result of the grants or incentives described in paragraph (1) shall be used to inform the development of the Supply Star Program.

''(f) TRAINING.—The Secretary shall use funds to support professional training programs to develop and communicate methods, practices, and tools for improving supply chain efficiency.

''(g) EFFECT OF OUTSOURCING OF AMERICAN JOBS.—For purposes of this section, the outsourcing of American jobs in the production of a product shall not count as a positive factor in determining supply chain efficiency.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for the period of fiscal years 2014 through 2023.''.

**Subtitle C—Electric Motor Rebate Program**

**SEC. 221. ENERGY SAVING MOTOR CONTROL, ELECTRIC MOTOR, AND ADVANCED MOTOR SYSTEMS REBATE PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) ADVANCED MOTOR AND DRIVE SYSTEM.—The term ''advanced motor and drive system'' means an electric motor and any required associated electronic control that—

(A) offers variable or multiple speed operation;

(B) offers efficiency at a rated full load that is greater than the efficiency described for the equivalent rating in—

(i) table 12–12 of National Electrical Manufactures Association (NEMA MG 1–2011); or

(ii) section 431.446 of National Electrical Manufactures Association (2012); and

(C) uses—

(i) permanent magnet alternating current synchronous motor technology;

(ii) electronically commutated motor technology;

(iii) switched reluctance motor technology;

(iv) synchronous reluctance motor technology; or

(v) such other motor that has greater than 1 horsepower and uses a drive systems technology, as determined by the Secretary.

(2) ELECTRIC MOTOR.—The term ''electric motor'' has the meaning given the term in section 431.12 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(3) QUALIFIED PRODUCT.—The term ''qualified product'' means—

(A) a new constant speed electric motor control that—

(i) is attached to an electric motor; and

(ii) reduces the energy use of the electric motor by not less than 5 percent; and

(B) commercial or industrial machinery or equipment that—

(i) is manufactured and incorporates an advanced motor and drive system that has greater than 1 horsepower into a redesigned machine or equipment that did not previously make use of the advanced motor and drive system; or

(ii) was previously used and placed back into service in calendar year 2014 or 2015 that upgrades the existing machine or equipment with an advanced motor and drive system.

(b) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a program to provide rebates for expenditures made by qualified entities for the purchase and installation of qualified products.

(c) QUALIFIED ENTITIES.—A qualified entity under this section shall be—

(1) in the case of a qualified product described in subsection (a)(3)(A), the purchaser of the qualified product for whom the qualified product is installed; and

(2) in the case of a qualified product described in subsection (a)(3)(B)), the manufacturer of the machine or equipment that incorporated the advanced motor and drive system into the machine or equipment.

(d) REQUIREMENTS.—

(1) APPLICATION.—To be eligible to receive a rebate under this section, a qualified entity shall submit to the Secretary or an entity designated by the Secretary an application and certification in such form, at such time, and containing such information as the Secretary may require, including demonstrated evidence that the qualified entity purchased a qualified product and—

(A) in the case of a qualified product described in subsection (a)(3)(A)—

(i) demonstrated evidence that the qualified entity installed the qualified product in calendar year 2014 or 2015;

(ii) demonstrated evidence that the qualified product reduces motor energy use by not less than 5 percent, in accordance with procedures approved by the Secretary; and

(iii) the serial number, manufacturer, and model number from the nameplate of the installed motor of the qualified entity on which the qualified product was installed; and

(B) in the case of a qualified product described in subsection (a)(3)(B)—

(i) demonstrated evidence that the manufacturer—

(I) redesigned a machine or equipment of a manufacturer that did not previously make use of an advanced motor and drive system; or

(II) upgraded a used machine or equipment to incorporate an advanced motor and drive system;

(ii) demonstrated evidence that the qualified product was sold, installed, or placed back into service in calendar year 2014 or 2015; and

(iii) the serial number, manufacturer, and model number from the nameplate of the installed motor of the qualified entity with which the advanced motor and drive system is integrated.

(2) AUTHORIZED AMOUNT OF REBATE.—The Secretary may provide to a qualified entity that has satisfied the requirements of paragraph (1) a rebate the amount of which shall be equal to the product obtained by multiplying—

(A) the nameplate rated horsepower of—

(i) the electric motor to which the new constant speed electric motor control is attached;

(ii) the new electric motor that replaced a previously installed electric motor; or

(iii) the advanced electric motor control system; and

(B) $25.

(3) MAXIMUM AGGREGATE AMOUNT.—No entity shall be entitled to aggregate rebates under this section in excess of $250,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2014 and 2015, to remain available until expended.

**Subtitle D—Transformer Rebate Program**

**SEC. 231. ENERGY EFFICIENT TRANSFORMER REBATE PROGRAM.**

(a) DEFINITION OF QUALIFIED TRANSFORMER.—In this section, the term ''qualified transformer'' means a transformer that meets or exceeds the National Electrical Manufacturers Association (NEMA) Premium Efficiency designation, calculated to 2 decimal points, as having 30 percent fewer losses than the NEMA TP–1–2002 efficiency standard for a transformer of the same number of phases and capacity, as measured in kilovolt-amperes.

(b) ESTABLISHMENT.—Not later than January 1, 2014, the Secretary shall establish a program under which rebates are provided for expenditures made by owners of industrial or manufacturing facilities, commercial buildings, and multifamily residential buildings for the purchase and installation of a new energy efficient transformers.

(c) REQUIREMENTS.—

(1) APPLICATION.—To be eligible to receive a rebate under this section, an owner shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require, including demonstrated evidence that the owner purchased a qualified transformer.

(2) AUTHORIZED AMOUNT OF REBATE.—For qualified transformers, rebates, in dollars per kilovolt-ampere (referred to in this paragraph as ''kVA'') shall be—

(A) for 3-phase transformers—

(i) with a capacity of not greater than 10 kVA, 15;

(ii) with a capacity of not less than 10 kVA and not greater than 100 kVA, the difference between 15 and the quotient obtained by dividing—

(I) the difference between—

(aa) the capacity of the transformer in kVA; and

(bb) 10; by

(II) 9; and

(iii) with a capacity greater than or equal to 100 kVA, 5; and

(B) for single-phase transformers, 75 percent of the rebate for a 3-phase transformer of the same capacity.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2014 and 2015, to remain available until expended.

(e) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates effective December 31, 2015.

**TITLE III—FEDERAL AGENCY ENERGY EFFICIENCY**

**SEC. 301. ENERGY-EFFICIENT AND ENERGY-SAVING INFORMATION TECHNOLOGIES.**

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended—

(1) by redesignating the second subsection (f) (relating to large capital energy investments) as subsection (g); and

(2) by adding at the end the following:

''(h) FEDERAL IMPLEMENTATION STRATEGY FOR ENERGY-EFFICIENT AND ENERGY-SAVING INFORMATION TECHNOLOGIES.—

''(1) DEFINITIONS.—In this subsection:

''(A) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(B) INFORMATION TECHNOLOGY.—The term 'information technology' has the meaning given the term in section 11101 of title 40, United States Code.

''(2) DEVELOPMENT OF IMPLEMENTATION STRATEGY.—Not later than 1 year after the date of enactment of this subsection, each Federal agency shall collaborate with the Director to develop an implementation strategy (including best-practices and measurement and verification techniques) for the maintenance, purchase, and use by the Federal agency of energy-efficient and energy-saving information technologies.

''(3) ADMINISTRATION.—In developing an implementation strategy, each Federal agency shall consider—

''(A) advanced metering infrastructure;

''(B) energy efficient data center strategies and methods of increasing asset and infrastructure utilization;

''(C) advanced power management tools;

''(D) building information modeling, including building energy management; and

''(E) secure telework and travel substitution tools.

''(4) PERFORMANCE GOALS.—

''(A) IN GENERAL.—Not later than September 30, 2014, the Director, in consultation with the Secretary, shall establish performance goals for evaluating the efforts of Federal agencies in improving the maintenance, purchase, and use of energy-efficient and energy-saving information technology systems.

''(B) BEST PRACTICES.—The Chief Information Officers Council established under section 3603 of title 44, United States Code, shall supplement the performance goals established under this paragraph with recommendations on best practices for the attainment of the performance goals, to include a requirement for agencies to consider the use of—

''(i) energy savings performance contracting; and

''(ii) utility energy services contracting.

''(5) REPORTS.—

''(A) AGENCY REPORTS.—Each Federal agency subject to the requirements of this subsection shall include in the report of the agency under section 527 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17143) a description of the efforts and results of the agency under this subsection.

''(B) OMB GOVERNMENT EFFICIENCY REPORTS AND SCORECARDS.—Effective beginning not later than October 1, 2014, the Director shall include in the annual report and scorecard of the Director required under section 528 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17144) a description of the efforts and results of Federal agencies under this subsection.

''(C) USE OF EXISTING REPORTING STRUCTURES.—The Director may require Federal agencies to submit any information required to be submitted under this subsection though reporting structures in use as of the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2014.''.

**SEC. 302. AVAILABILITY OF FUNDS FOR DESIGN UPDATES.**

Section 3307 of title 40, United States Code, is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following:

''(d) AVAILABILITY OF FUNDS FOR DESIGN UPDATES.—

''(1) IN GENERAL.—Subject to paragraph (2), for any project for which congressional approval is received under subsection (a) and for which the design has been substantially completed but construction has not begun, the Administrator of General Services may use appropriated funds to update the project design to meet applicable Federal building energy efficiency standards established under section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) and other requirements established under section 3312.

''(2) LIMITATION.—The use of funds under paragraph (1) shall not exceed 125 percent of the estimated energy or other cost savings associated with the updates as determined by a life cycle cost analysis under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254).''.

**SEC. 303. ENERGY EFFICIENT DATA CENTERS.**

Section 453 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17112) is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Not later than 30 days after the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2014, the Secretary and the Administrator shall—

''(A) designate an established information technology industry organization to coordinate the program described in subsection (b); and

''(B) make the designation public, including on an appropriate website.'';

(2) by striking subsections (e) and (f) and inserting the following:

''(e) STUDY.—The Secretary, with assistance from the Administrator, shall—

''(1) not later than December 31, 2014, make available to the public an update to the Report to Congress on Server and Data Center Energy Efficiency published on August 2, 2007, under section 1 of Public Law 109–431 (120 Stat. 2920), that provides—

''(A) a comparison and gap analysis of the estimates and projections contained in the original report with new data regarding the period from 2007 through 2013;

''(B) an analysis considering the impact of information technologies, to include virtualization and cloud computing, in the public and private sectors; and

''(C) updated projections and recommendations for best practices through fiscal year 2020; and

''(2) collaborate with the organization designated under subsection (c) in preparing the report.

''(f) DATA CENTER ENERGY PRACTITIONER PROGRAM.—

''(1) IN GENERAL.—The Secretary, in collaboration with the organization designated under subsection (c) and in consultation with the Administrator for the Office of E-Government and Information Technology within the Office of Management and Budget, shall maintain a data center energy practitioner program that leads to the certification of energy practitioners qualified to evaluate the energy usage and efficiency opportunities in data centers.

''(2) EVALUATIONS.—Each Federal agency shall consider having the data centers of the agency evaluated every 4 years by energy practitioners certified pursuant to the program, whenever practicable using certified practitioners employed by the agency.'';

(3) by redesignating subsection (g) as subsection (j); and

(4) by inserting after subsection (f) the following:

''(g) OPEN DATA INITIATIVE.—

''(1) IN GENERAL.—The Secretary, in collaboration with the organization designated under subsection (c) and in consultation with the Administrator for the Office of E-Government and Information Technology within the Office of Management and Budget, shall establish an open data initiative for Federal data center energy usage data, with the purpose of making the data available and accessible in a manner that empowers further data center optimization and consolidation.

''(2) ADMINISTRATION.—In establishing the initiative, the Secretary shall consider use of the online Data Center Maturity Model.

''(h) INTERNATIONAL SPECIFICATIONS AND METRICS.—The Secretary, in collaboration with the organization designated under subsection (c), shall actively participate in efforts to harmonize global specifications and metrics for data center energy efficiency.

''(i) DATA CENTER UTILIZATION METRIC.—The Secretary, in collaboration with the organization designated under subsection (c), shall assist in the development of an efficiency metric that measures the energy efficiency of the overall data center.''.

**SEC. 304. BUDGET-NEUTRAL DEMONSTRATION PROGRAM FOR ENERGY AND WATER CONSERVATION IMPROVEMENTS AT MULTIFAMILY RESIDENTIAL UNITS.**

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development (referred to in this section as the ''Secretary'') shall establish a demonstration program under which, during the period beginning on the date of enactment of this Act, and ending on September 30, 2017, the Secretary may enter into budget-neutral, performance-based agreements that result in a reduction in energy or water costs with such entities as the Secretary determines to be appropriate under which the entities shall carry out projects for energy or water conservation improvements at not more than 20,000 residential units in multifamily buildings participating in—

(1) the project-based rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), other than assistance provided under section 8(o) of that Act;

(2) the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); or

(3) the supportive housing for persons with disabilities program under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(2)).

(b) REQUIREMENTS.—

(1) PAYMENTS CONTINGENT ON SAVINGS.—

(A) IN GENERAL.—The Secretary shall provide to an entity a payment under an agreement under this section only during applicable years for which an energy or water cost savings is achieved with respect to the applicable multifamily portfolio of properties, as determined by the Secretary, in accordance with subparagraph (B).

(B) PAYMENT METHODOLOGY.—

(i) IN GENERAL.—Each agreement under this section shall include a pay-for-success provision—

(I) that will serve as a payment threshold for the term of the agreement; and

(II) pursuant to which the Department of Housing and Urban Development shall share a percentage of the savings at a level determined by the Secretary that is sufficient to cover the administrative costs of carrying out this section.

(ii) LIMITATIONS.—A payment made by the Secretary under an agreement under this section shall—

(I) be contingent on documented utility savings; and

(II) not exceed the utility savings achieved by the date of the payment, and not previously paid, as a result of the improvements made under the agreement.

(C) THIRD PARTY VERIFICATION.—Savings payments made by the Secretary under this section shall be based on a measurement and verification protocol that includes at least—

(i) establishment of a weather-normalized and occupancy-normalized utility consumption baseline established preretrofit;

(ii) annual third party confirmation of actual utility consumption and cost for owner-paid utilities;

(iii) annual third party validation of the tenant utility allowances in effect during the applicable year and vacancy rates for each unit type; and

(iv) annual third party determination of savings to the Secretary.

(2) TERM.—The term of an agreement under this section shall be not longer than 12 years.

(3) ENTITY ELIGIBILITY.—The Secretary shall—

(A) establish a competitive process for entering into agreements under this section; and

(B) enter into such agreements only with entities that demonstrate significant experience relating to—

(i) financing and operating properties receiving assistance under a program described in subsection (a);

(ii) oversight of energy and water conservation programs, including oversight of contractors; and

(iii) raising capital for energy and water conservation improvements from charitable organizations or private investors.

(4) GEOGRAPHICAL DIVERSITY.—Each agreement entered into under this section shall provide for the inclusion of properties with the greatest feasible regional and State variance.

(c) PLAN AND REPORTS.—

(1) PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed plan for the implementation of this section.

(2) REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall—

(A) conduct an evaluation of the program under this section; and

(B) submit to Congress a report describing each evaluation conducted under subparagraph (A).

(d) FUNDING.—For each fiscal year during which an agreement under this section is in effect, the Secretary may use to carry out this section any funds appropriated to the Secretary for the renewal of contracts under a program described in subsection (a).

## TITLE IV—REGULATORY PROVISIONS

### Subtitle A—Third-party Certification Under Energy Star Program

#### SEC. 401. THIRD-PARTY CERTIFICATION UNDER ENERGY STAR PROGRAM.

Section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a) is amended by adding at the end the following:

''(e) THIRD-PARTY CERTIFICATION.—

''(1) IN GENERAL.—Subject to paragraph (2), not later than 180 days after the date of enactment of this subsection, the Administrator shall revise the certification requirements for the labeling of consumer, home, and office electronic products for program partners that have complied with all requirements of the Energy Star program for a period of at least 18 months.

''(2) ADMINISTRATION.—In the case of a program partner described in paragraph (1), the new requirements under paragraph (1)—

''(A) shall not require third-party certification for a product to be listed; but

''(B) may require that test data and other product information be submitted to facilitate product listing and performance verification for a sample of products.

''(3) THIRD PARTIES.—Nothing in this subsection prevents the Administrator from using third parties in the course of the administration of the Energy Star program.

''(4) TERMINATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), an exemption from third-party certification provided to a program partner under paragraph (1) shall terminate if the program partner is found to have violated program requirements with respect to at least 2 separate models during a 2-year period.

''(B) RESUMPTION.—A termination for a program partner under subparagraph (A) shall cease if the program partner complies with all Energy Star program requirements for a period of at least 3 years.''.

### Subtitle B—Federal Green Buildings

#### SEC. 411. HIGH-PERFORMANCE GREEN FEDERAL BUILDINGS.

Section 436(h) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17092(h)) is amended—

(1) in the subsection heading, by striking ''SYSTEM'' and inserting ''SYSTEMS'';

(2) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Based on an ongoing review, the Federal Director shall identify and shall provide to the Secretary pursuant to section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), a list of those certification systems that the Director identifies as the most likely to encourage a comprehensive and environmentally sound approach to certification of green buildings.''; and

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''system'' and inserting ''systems'';

(B) by striking subparagraph (A) and inserting the following:

''(A) an ongoing review provided to the Secretary pursuant to section 305(a)(3)(D) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)(3)(D)), which shall—

''(i) be carried out by the Federal Director to compare and evaluate standards; and

''(ii) allow any developer or administrator of a rating system or certification system to be included in the review;'';

(C) in subparagraph (E)(v), by striking ''and'' after the semicolon at the end;

(D) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

''(G) a finding that, for all credits addressing grown, harvested, or mined materials, the system does not discriminate against the use of domestic products that have obtained certifications of responsible sourcing; and

''(H) a finding that the system incorporates life-cycle assessment as a credit pathway.''.

### Subtitle C—Water Heaters

#### SEC. 421. GRID-ENABLED WATER HEATERS.

Part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended—

(1) in section 325(e), by adding at the end the following:

''(6) ADDITIONAL STANDARDS FOR GRID-ENABLED WATER HEATERS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) ACTIVATION KEY.—The term 'activation key' means a physical device or control directly on the water heater, a software code, or a digital communication means—

''(I) that must be activated to enable the product to operate continuously and at its designed specifications and capabilities; and

''(II) without which activation the product will provide not greater than 50 percent of the rated first hour delivery of hot water certified by the manufacturer.

''(ii) GRID-ENABLED WATER HEATER.—The term 'grid-enabled water heater' means an electric resistance water heater—

''(I) with a rated storage tank volume of more than 75 gallons;

''(II) manufactured on or after April 16, 2015;

''(III) that has—

''(aa) an energy factor of not less than 1.061 minus the product obtained by multiplying—

''(AA) the rated storage volume of the tank, expressed in gallons; and

''(BB) 0.00168; or

''(bb) an efficiency level equivalent to the energy factor under item (aa) and expressed as a uniform energy descriptor based on the revised test procedure for water heaters described in paragraph (5);

''(IV) equipped by the manufacturer with an activation key; and

''(V) that bears a permanent label applied by the manufacturer that—

''(aa) is made of material not adversely affected by water;

''(bb) is attached by means of non-water-soluble adhesive; and

''(cc) advises purchasers and end-users of the intended and appropriate use of the product with the following notice printed in 16.5 point Arial Narrow Bold font:

''IMPORTANT INFORMATION: This water heater is intended only for use as part of an electric thermal storage or demand response program. It will not provide adequate hot water unless enrolled in such a program and activated by your utility company or another program operator. Confirm the availability of a program in your local area before purchasing or installing this product.'.

''(B) REQUIREMENT.—The manufacturer or private labeler shall provide the activation key only to utilities or other companies operating electric thermal storage or demand response programs that use grid-enabled water heaters.

''(C) REPORTS.—

''(i) MANUFACTURERS.—The Secretary shall require each manufacturer of grid-enabled water heaters to report to the Secretary annually the number of grid-enabled water heaters that the manufacturer ships each year.

''(ii) OPERATORS.—The Secretary shall require utilities and other demand response and thermal storage program operators to report annually the number of grid-enabled water heaters activated for their programs using forms of the Energy Information Agency or using such other mechanism that the Secretary determines appropriate after an opportunity for notice and comment.

''(iii) CONFIDENTIALITY REQUIREMENTS.—The Secretary shall treat shipment data reported by manufacturers as confidential business information.

''(D) PUBLICATION OF INFORMATION.—

''(i) IN GENERAL.—In 2017 and 2019, the Secretary shall publish an analysis of the data collected under subparagraph (C) to assess the extent to which shipped products are put into use in demand response and thermal storage programs.

''(ii) PREVENTION OF PRODUCT DIVERSION.—If the Secretary determines that sales of grid-enabled water heaters exceed by 15 percent or greater the number of such products activated for use in demand response and thermal storage programs annually, the Secretary shall, after opportunity for notice and comment, establish procedures to prevent product diversion for non-program purposes.

''(E) COMPLIANCE.—

''(i) IN GENERAL.—Subparagraphs (A) through (D) shall remain in effect until the Secretary determines under this section that grid-enabled water heaters do not require a separate efficiency requirement.

''(ii) EFFECTIVE DATE.—If the Secretary exercises the authority described in clause (i) or amends the efficiency requirement for grid-enabled water heaters, that action will take effect on the date described in subsection (m)(4)(A)(ii).

''(iii) CONSIDERATION.—In carrying out this section with respect to electric water heaters, the Secretary shall consider the impact on thermal storage and demand response programs, including the consequent impact on energy savings, electric bills, electric reliability, integration of renewable resources, and the environment.

''(iv) REQUIREMENTS.—In carrying out this subparagraph, the Secretary shall require

that grid-enabled water heaters be equipped with communication capability to enable the grid-enabled water heaters to participate in ancillary services programs if the Secretary determines that the technology is available, practical, and cost-effective.''; and

(2) in section 332—

(A) in paragraph (5), by striking ''or'' at the end;

(B) in the first paragraph (6), by striking the period at the end and inserting a semicolon;

(C) by redesignating the second paragraph (6) as paragraph (7);

(D) in subparagraph (B) of paragraph (7) (as so redesignated), by striking the period at the end and inserting ''; or''; and

(E) by adding at the end the following:

''(8) with respect to grid-enabled water heaters that are not used as part of an electric thermal storage or demand response program, for any person knowingly and repeatedly—

''(A) to distribute activation keys for those grid-enabled water heaters;

''(B) otherwise to enable the full operation of those grid-enabled water heaters; or

''(C) to remove or render illegible the labels of those grid-enabled water heaters.''.

**Subtitle D—Energy Performance Requirement for Federal Buildings**

**SEC. 431. ENERGY PERFORMANCE REQUIREMENT FOR FEDERAL BUILDINGS.**

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) ENERGY PERFORMANCE REQUIREMENT FOR FEDERAL BUILDINGS.—

''(1) REQUIREMENT.—Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2006 through 2017 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2003, by the percentage specified in the following table:

| ''Fiscal Year | Percentage Reduction |
|---|---|
| 2006 | 2 |
| 2007 | 4 |
| 2008 | 9 |
| 2009 | 12 |
| 2010 | 15 |
| 2011 | 18 |
| 2012 | 21 |
| 2013 | 24 |
| 2014 | 27 |
| 2015 | 30 |
| 2016 | 33 |
| 2017 | 36 |

''(2) EXCLUSION FOR BUILDINGS WITH ENERGY INTENSIVE ACTIVITIES.—

''(A) IN GENERAL.—An agency may exclude from the requirements of paragraph (1) any building (including the associated energy consumption and gross square footage) in which energy intensive activities are carried out.

''(B) REPORTS.—Each agency shall identify and list in each report made under section 548(a) the buildings designated by the agency for exclusion under subparagraph (A).

''(3) REVIEW.—Not later than December 31, 2017, the Secretary shall—

''(A) review the results of the implementation of the energy performance requirements established under paragraph (1); and

''(B) based on the review conducted under subparagraph (A), submit to Congress a report that addresses the feasibility of requiring each agency to apply energy conservation measures to, and improve the design for the construction of, the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in each of fiscal years 2018 through 2030 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in the prior fiscal year, by 3 percent.''; and

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (F), (G), and (H), respectively; and

(ii) by inserting after subparagraph (D) the following:

''(E) ONGOING COMMISSIONING.—The term 'ongoing commissioning' means an ongoing process of commissioning using monitored data, the primary goal of which is to ensure continuous optimum performance of a facility, in accordance with design or operating needs, over the useful life of the facility, while meeting facility occupancy requirements.'';

(B) in paragraph (2), by adding at the end the following:

''(C) ENERGY MANAGEMENT SYSTEM.—An energy manager designated under subparagraph (A) shall consider use of a system to manage energy use at the facility and certification of the facility in accordance with the International Organization for Standardization standard numbered 50001 and entitled 'Energy Management Systems'.'';

(C) by striking paragraphs (3) and (4) and inserting the following:

''(3) ENERGY AND WATER EVALUATIONS AND COMMISSIONING.—

''(A) EVALUATIONS.—Except as provided in subparagraph (B), effective beginning on the date that is 180 days after the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2014, and annually thereafter, each energy manager shall complete, for each calendar year, a comprehensive energy and water evaluation and recommissioning or retrocommissioning for approximately 25 percent of the facilities of each agency that meet the criteria under paragraph (2)(B) in a manner that ensures that an evaluation of each facility is completed at least once every 4 years.

''(B) EXCEPTIONS.—An evaluation and recommissioning shall not be required under subparagraph (A) with respect to a facility that—

''(i) has had a comprehensive energy and water evaluation during the 8-year period preceding the date of the evaluation;

''(ii)(I) has been commissioned, recommissioned, or retrocommissioned during the 10-year period preceding the date of the evaluation; or

''(II) is under ongoing commissioning;

''(iii) has not had a major change in function or use since the previous evaluation and commissioning;

''(iv) has been benchmarked with public disclosure under paragraph (8) within the year preceding the evaluation; and

''(v)(I) based on the benchmarking, has achieved at a facility level the most recent cumulative energy savings target under subsection (a) compared to the earlier of—

''(aa) the date of the most recent evaluation; or

''(bb) the date—

''(AA) of the most recent commissioning, recommissioning, or retrocommissioning; or

''(BB) on which ongoing commissioning began; or

''(II) has a long-term contract in place guaranteeing energy savings at least as great as the energy savings target under subclause (I).

''(4) IMPLEMENTATION OF IDENTIFIED ENERGY AND WATER EFFICIENCY MEASURES.—

''(A) IN GENERAL.—Not later than 2 years after the date of completion of each evaluation under paragraph (3), each energy manager may—

''(i) implement any energy- or water-saving measure that the Federal agency identified in the evaluation conducted under paragraph (3) that is life-cycle cost effective; and

''(ii) bundle individual measures of varying paybacks together into combined projects.

''(B) MEASURES NOT IMPLEMENTED.—The energy manager shall, as part of the certification system under paragraph (7), explain the reasons why any life-cycle cost effective measures were not implemented under subparagraph (A) using guidelines developed by the Secretary.''; and

(D) in paragraph (7)(C), by adding at the end the following:

''(iii) SUMMARY REPORT.—The Secretary shall make available a report that summarizes the information tracked under subparagraph (B)(i) by each agency and, as applicable, by each type of measure.''.

**SEC. 432. FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS; CERTIFICATION SYSTEM AND LEVEL FOR GREEN BUILDINGS.**

(a) DEFINITIONS.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) (as amended by section 101(a)) is amended—

(1) in paragraph (6), by striking ''to be constructed'' and inserting ''constructed or altered''; and

(2) by adding at the end the following:

''(19) MAJOR RENOVATION.—The term 'major renovation' means a modification of building energy systems sufficiently extensive that the whole building can meet energy standards for new buildings, based on criteria to be established by the Secretary through notice and comment rulemaking.''.

(b) FEDERAL BUILDING EFFICIENCY STANDARDS.—Section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) is amended—

(1) in subsection (a)(3)—

(A) by striking ''(3)(A) Not later than'' and all that follows through subparagraph (B) and inserting the following:

''(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS; CERTIFICATION FOR GREEN BUILDINGS.—

''(A) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2014, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that—

''(I) new Federal buildings and alterations and additions to existing Federal buildings—

''(aa) meet or exceed the most recent revision of the International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1 (in the case of commercial buildings) as of the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2014; and

''(bb) meet or exceed the energy provisions of State and local building codes applicable to the building, if the codes are more stringent than the International Energy Conservation Code or ASHRAE Standard 90.1, as applicable;

''(II) unless demonstrated not to be life-cycle cost effective for new Federal buildings and Federal buildings with major renovations—

''(aa) the buildings be designed to achieve energy consumption levels that are at least 30 percent below the levels established in the

version of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, that is applied under subclause (I)(aa), including updates under subparagraph (B); and

''(bb) sustainable design principles are applied to the location, siting, design, and construction of all new Federal buildings and replacement Federal buildings;

''(III) if water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost effective;

''(IV) if life-cycle cost effective, as compared to other reasonably available technologies, not less than 30 percent of the hot water demand for each new Federal building or Federal building undergoing a major renovation be met through the installation and use of solar hot water heaters; and

''(V) in addition to complying with the other requirements under this paragraph, unless found not to be life-cycle cost effective, new Federal buildings that are at least 5,000 square feet in size shall comply with the Guiding Principles for Sustainable New Construction and Major Renovations (as established in the document entitled High Performance and Sustainable Buildings Guidance (Final) and dated December 1, 2008).

''(ii) LIMITATION.—Clause (i)(I) shall not apply to unaltered portions of existing Federal buildings and systems that have been added to or altered.

''(B) UPDATES.—Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary shall determine whether the revised standards established under subparagraph (A) should be updated to reflect the revisions, based on the energy savings and life-cycle cost-effectiveness of the revisions.'';

(B) in subparagraph (C), by striking ''(C) In the budget request'' and inserting the following:

''(C) BUDGET REQUEST.—In the budget request''; and

(C) by striking subparagraph (D) and inserting the following:

''(D) CERTIFICATION FOR GREEN BUILDINGS.—

''(i) SUSTAINABLE DESIGN PRINCIPLES.—Sustainable design principles shall be applied to the siting, design, and construction of buildings covered by this subparagraph.

''(ii) SELECTION OF CERTIFICATION SYSTEMS.—The Secretary, after reviewing the findings of the Federal Director under section 436(h) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17092(h)), in consultation with the Administrator of General Services, and in consultation with the Secretary of Defense relating to those facilities under the custody and control of the Department of Defense, shall determine those certification systems for green commercial and residential buildings that the Secretary determines to be the most likely to encourage a comprehensive and environmentally sound approach to certification of green buildings.

''(iii) BASIS FOR SELECTION.—The determination of the certification systems under clause (ii) shall be based on ongoing review of the findings of the Federal Director under section 436(h) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17092(h)) and the criteria described in clause (v).

''(iv) ADMINISTRATION.—In determining certification systems under this subparagraph, the Secretary shall—

''(I) make a separate determination for all or part of each system;

''(II) confirm that the criteria used to support the selection of building products, materials, brands, and technologies are fair and neutral (meaning that such criteria are based on an objective assessment of relevant technical data), do not prohibit, disfavor, or discriminate against selection based on technically inadequate information to inform human or environmental risk, and are expressed to prefer performance measures whenever performance measures may reasonably be used in lieu of prescriptive measures; and

''(III) use environmental and health criteria that are based on risk assessment methodology that is generally accepted by the applicable scientific disciplines.

''(v) CONSIDERATIONS.—In determining the green building certification systems under this subparagraph, the Secretary shall take into consideration—

''(I) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this subparagraph;

''(II) the ability of the applicable certification organization to collect and reflect public comment;

''(III) the ability of the standard to be developed and revised through a consensus-based process;

''(IV) an evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

''(aa) efficient and sustainable use of water, energy, and other natural resources;

''(bb) use of renewable energy sources;

''(cc) improved indoor environmental quality through enhanced indoor air quality, thermal comfort, acoustics, day lighting, pollutant source control, and use of low-emission materials and building system controls; and

''(dd) such other criteria as the Secretary determines to be appropriate; and

''(V) national recognition within the building industry.

''(vi) REVIEW.—The Secretary, in consultation with the Administrator of General Services and the Secretary of Defense, shall conduct an ongoing review to evaluate and compare private sector green building certification systems, taking into account—

''(I) the criteria described in clause (v); and

''(II) the identification made by the Federal Director under section 436(h) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17092(h)).

''(vii) EXCLUSIONS.—

''(I) IN GENERAL.—Subject to subclause (II), if a certification system fails to meet the review requirements of clause (v), the Secretary shall—

''(aa) identify the portions of the system, whether prerequisites, credits, points, or otherwise, that meet the review criteria of clause (v);

''(bb) determine the portions of the system that are suitable for use; and

''(cc) exclude all other portions of the system from identification and use.

''(II) ENTIRE SYSTEMS.—The Secretary shall exclude an entire system from use if an exclusion under subclause (I)—

''(aa) impedes the integrated use of the system;

''(bb) creates disparate review criteria or unequal point access for competing materials; or

''(cc) increases agency costs of the use.

''(viii) INTERNAL CERTIFICATION PROCESSES.—The Secretary may by rule allow Federal agencies to develop internal certification processes, using certified professionals, in lieu of certification by certification entities identified under clause (ii).

''(ix) PRIVATIZED MILITARY HOUSING.—With respect to privatized military housing, the Secretary of Defense, after consultation with the Secretary may, through rulemaking, develop alternative certification systems and levels than the systems and levels identified under clause (ii) that achieve an equivalent result in terms of energy savings, sustainable design, and green building performance.

''(x) WATER CONSERVATION TECHNOLOGIES.—In addition to any use of water conservation technologies otherwise required by this section, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.

''(xi) EFFECTIVE DATE.—

''(I) DETERMINATIONS MADE AFTER DECEMBER 31, 2015.—The amendments made by section 432(b)(1)(C) of the Energy Savings and Industrial Competitiveness Act of 2014 shall apply to any determination made by a Federal agency after December 31, 2015.

''(II) DETERMINATIONS MADE ON OR BEFORE DECEMBER 31, 2015.—This subparagraph (as in effect on the day before the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2014) shall apply to any use of a certification system for green commercial and residential buildings by a Federal agency on or before December 31, 2015.''; and

(2) by striking subsections (c) and (d) and inserting the following:

''(c) PERIODIC REVIEW.—The Secretary shall—

''(1) once every 5 years, review the Federal building energy standards established under this section; and

''(2) on completion of a review under paragraph (1), if the Secretary determines that significant energy savings would result, upgrade the standards to include all new energy efficiency and renewable energy measures that are technologically feasible and economically justified.''.

**SEC. 433. ENHANCED ENERGY EFFICIENCY UNDERWRITING.**

(a) DEFINITIONS.—In this section:

(1) COVERED AGENCY.—The term ''covered agency''—

(A) means—

(i) an executive agency, as that term is defined in section 102 of title 31, United States Code; and

(ii) any other agency of the Federal Government; and

(B) includes any enterprise, as that term is defined under section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502).

(2) COVERED LOAN.—The term ''covered loan'' means a loan secured by a home that is issued, insured, purchased, or securitized by a covered agency.

(3) HOMEOWNER.—The term ''homeowner'' means the mortgagor under a covered loan.

(4) MORTGAGEE.—The term ''mortgagee'' means—

(A) an original lender under a covered loan or the holder of a covered loan at the time at which that mortgage transaction is consummated;

(B) any affiliate, agent, subsidiary, successor, or assignee of an original lender under a covered loan or the holder of a covered loan at the time at which that mortgage transaction is consummated;

(C) any servicer of a covered loan; and

(D) any subsequent purchaser, trustee, or transferee of any covered loan issued by an original lender.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(6) SERVICER.—The term ''servicer'' means the person or entity responsible for the servicing of a covered loan, including the person or entity who makes or holds a covered loan if that person or entity also services the covered loan.

(7) SERVICING.—The term ''servicing'' has the meaning given the term in section 6(i) of

the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)).

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) energy costs for homeowners are a significant and increasing portion of their household budgets;

(B) household energy use can vary substantially depending on the efficiency and characteristics of the house;

(C) expected energy cost savings are important to the value of the house;

(D) the current test for loan affordability used by most covered agencies, commonly known as the ''debt-to-income'' test, is inadequate because it does not take into account the expected energy cost savings for the homeowner of an energy efficient home; and

(E) another loan limitation, commonly known as the ''loan-to-value'' test, is tied to the appraisal, which often does not adjust for efficiency features of houses.

(2) PURPOSES.—The purposes of this section are to—

(A) improve the accuracy of mortgage underwriting by Federal mortgage agencies by ensuring that energy cost savings are included in the underwriting process as described below, and thus to reduce the amount of energy consumed by homes and to facilitate the creation of energy efficiency retrofit and construction jobs;

(B) require a covered agency to include the expected energy cost savings of a homeowner as a regular expense in the tests, such as the debt-to-income test, used to determine the ability of the loan applicant to afford the cost of homeownership for all loan programs; and

(C) require a covered agency to include the value home buyers place on the energy efficiency of a house in tests used to compare the mortgage amount to home value, taking precautions to avoid double-counting and to support safe and sound lending.

(c) ENHANCED ENERGY EFFICIENCY UNDERWRITING CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, in consultation with the advisory group established in subsection (f)(2), develop and issue guidelines for a covered agency to implement enhanced loan eligibility requirements, for use when testing the ability of a loan applicant to repay a covered loan, that account for the expected energy cost savings for a loan applicant at a subject property, in the manner set forth in paragraphs (2) and (3).

(2) REQUIREMENTS TO ACCOUNT FOR ENERGY COST SAVINGS.—The enhanced loan eligibility requirements under paragraph (1) shall require that, for all covered loans for which an energy efficiency report is voluntarily provided to the mortgagee by the mortgagor, the covered agency and the mortgagee shall take into consideration the estimated energy cost savings expected for the owner of the subject property in determining whether the loan applicant has sufficient income to service the mortgage debt plus other regular expenses. To the extent that a covered agency uses a test such as a debt-to-income test that includes certain regular expenses, such as hazard insurance and property taxes, the expected energy cost savings shall be included as an offset to these expenses. Energy costs to be assessed include the cost of electricity, natural gas, oil, and any other fuel regularly used to supply energy to the subject property.

(3) DETERMINATION OF ESTIMATED ENERGY COST SAVINGS.—

(A) IN GENERAL.—The guidelines to be issued under paragraph (1) shall include instructions for the covered agency to calculate estimated energy cost savings using—

(i) the energy efficiency report;

(ii) an estimate of baseline average energy costs; and

(iii) additional sources of information as determined by the Secretary.

(B) REPORT REQUIREMENTS.—For the purposes of subparagraph (A), an energy efficiency report shall—

(i) estimate the expected energy cost savings specific to the subject property, based on specific information about the property;

(ii) be prepared in accordance with the guidelines to be issued under paragraph (1); and

(iii) be prepared—

(I) in accordance with the Residential Energy Service Network's Home Energy Rating System (commonly known as ''HERS'') by an individual certified by the Residential Energy Service Network, unless the Secretary finds that the use of HERS does not further the purposes of this section; or

(II) by other methods approved by the Secretary, in consultation with the Secretary of Energy and the advisory group established in subsection (f)(2), for use under this section, which shall include a third-party quality assurance procedure.

(C) USE BY APPRAISER.—If an energy efficiency report is used under paragraph (2), the energy efficiency report shall be provided to the appraiser to estimate the energy efficiency of the subject property and for potential adjustments for energy efficiency.

(4) REQUIRED DISCLOSURE TO CONSUMER FOR A HOME WITH AN ENERGY EFFICIENCY REPORT.—If an energy efficiency report is used under paragraph (2), the guidelines to be issued under paragraph (1) shall require the mortgagee to—

(A) inform the loan applicant of the expected energy costs as estimated in the energy efficiency report, in a manner and at a time as prescribed by the Secretary, and if practicable, in the documents delivered at the time of loan application; and

(B) include the energy efficiency report in the documentation for the loan provided to the borrower.

(5) REQUIRED DISCLOSURE TO CONSUMER FOR A HOME WITHOUT AN ENERGY EFFICIENCY REPORT.—If an energy efficiency report is not used under paragraph (2), the guidelines to be issued under paragraph (1) shall require the mortgagee to inform the loan applicant in a manner and at a time as prescribed by the Secretary, and if practicable, in the documents delivered at the time of loan application of—

(A) typical energy cost savings that would be possible from a cost-effective energy upgrade of a home of the size and in the region of the subject property;

(B) the impact the typical energy cost savings would have on monthly ownership costs of a typical home;

(C) the impact on the size of a mortgage that could be obtained if the typical energy cost savings were reflected in an energy efficiency report; and

(D) resources for improving the energy efficiency of a home.

(6) PRICING OF LOANS.—

(A) IN GENERAL.—A covered agency may price covered loans originated under the enhanced loan eligibility requirements required under this section in accordance with the estimated risk of the loans.

(B) IMPOSITION OF CERTAIN MATERIAL COSTS, IMPEDIMENTS, OR PENALTIES.—In the absence of a publicly disclosed analysis that demonstrates significant additional default risk or prepayment risk associated with the loans, a covered agency shall not impose material costs, impediments, or penalties on covered loans merely because the loan uses an energy efficiency report or the enhanced loan eligibility requirements required under this section.

(7) LIMITATIONS.—

(A) IN GENERAL.—A covered agency may price covered loans originated under the enhanced loan eligibility requirements required under this section in accordance with the estimated risk of those loans.

(B) PROHIBITED ACTIONS.—A covered agency shall not—

(i) modify existing underwriting criteria or adopt new underwriting criteria that intentionally negate or reduce the impact of the requirements or resulting benefits that are set forth or otherwise derived from the enhanced loan eligibility requirements required under this subsection; or

(ii) impose greater buy back requirements, credit overlays, or insurance requirements, including private mortgage insurance, on covered loans merely because the loan uses an energy efficiency report or the enhanced loan eligibility requirements required under this subsection.

(8) APPLICABILITY AND IMPLEMENTATION DATE.—Not later than 4 years after the date of enactment of this Act, and before December 31, 2017, the enhanced loan eligibility requirements required under this subsection shall be implemented by each covered agency to—

(A) apply to any covered loan for the sale, or refinancing of any loan for the sale, of any home;

(B) be available on any residential real property (including individual units of condominiums and cooperatives) that qualifies for a covered loan; and

(C) provide prospective mortgagees with sufficient guidance and applicable tools to implement the required underwriting methods.

(d) ENHANCED ENERGY EFFICIENCY UNDERWRITING VALUATION GUIDELINES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(A) in consultation with the Federal Financial Institutions Examination Council and the advisory group established in subsection (f)(2), develop and issue guidelines for a covered agency to determine the maximum permitted loan amount based on the value of the property for all covered loans made on properties with an energy efficiency report that meets the requirements of subsection (c)(3)(B); and

(B) in consultation with the Secretary of Energy, issue guidelines for a covered agency to determine the estimated energy savings under paragraph (3) for properties with an energy efficiency report.

(2) REQUIREMENTS.—The enhanced energy efficiency underwriting valuation guidelines required under paragraph (1) shall include—

(A) a requirement that if an energy efficiency report that meets the requirements of subsection (c)(3)(B) is voluntarily provided to the mortgagee, such report shall be used by the mortgagee or covered agency to determine the estimated energy savings of the subject property; and

(B) a requirement that the estimated energy savings of the subject property be added to the appraised value of the subject property by a mortgagee or covered agency for the purpose of determining the loan-to-value ratio of the subject property, unless the appraisal includes the value of the overall energy efficiency of the subject property, using methods to be established under the guidelines issued under paragraph (1).

(3) DETERMINATION OF ESTIMATED ENERGY SAVINGS.—

(A) AMOUNT OF ENERGY SAVINGS.—The amount of estimated energy savings shall be determined by calculating the difference between the estimated energy costs for the average comparable houses, as determined in guidelines to be issued under paragraph (1),

and the estimated energy costs for the subject property based upon the energy efficiency report.

(B) DURATION OF ENERGY SAVINGS.—The duration of the estimated energy savings shall be based upon the estimated life of the applicable equipment, consistent with the rating system used to produce the energy efficiency report.

(C) PRESENT VALUE OF ENERGY SAVINGS.—The present value of the future savings shall be discounted using the average interest rate on conventional 30-year mortgages, in the manner directed by guidelines issued under paragraph (1).

(4) ENSURING CONSIDERATION OF ENERGY EFFICIENT FEATURES.—Section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3339) is amended—

(A) in paragraph (2), by striking ''; and'' and inserting a semicolon; and

(B) in paragraph (3), by striking the period at the end and inserting ''; and'' and inserting after paragraph (3) the following:

''(4) that State certified and licensed appraisers have timely access, whenever practicable, to information from the property owner and the lender that may be relevant in developing an opinion of value regarding the energy- and water-saving improvements or features of a property, such as—

''(A) labels or ratings of buildings;

''(B) installed appliances, measures, systems or technologies;

''(C) blueprints;

''(D) construction costs;

''(E) financial or other incentives regarding energy- and water-efficient components and systems installed in a property;

''(F) utility bills;

''(G) energy consumption and benchmarking data; and

''(H) third-party verifications or representations of energy and water efficiency performance of a property, observing all financial privacy requirements adhered to by certified and licensed appraisers, including section 501 of the Gramm-Leach-Bliley Act (15 U.S.C. 6801).

Unless a property owner consents to a lender, an appraiser, in carrying out the requirements of paragraph (4), shall not have access to the commercial or financial information of the owner that is privileged or confidential.''.

(5) TRANSACTIONS REQUIRING STATE CERTIFIED APPRAISERS.—Section 1113 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(A) in paragraph (1), by inserting before the semicolon the following: '', or any real property on which the appraiser makes adjustments using an energy efficiency report''; and

(B) in paragraph (2), by inserting after ''atypical'' the following: '', or an appraisal on which the appraiser makes adjustments using an energy efficiency report.''.

(6) PROTECTIONS.—

(A) AUTHORITY TO IMPOSE LIMITATIONS.—The guidelines to be issued under paragraph (1) shall include such limitations and conditions as determined by the Secretary to be necessary to protect against meaningful under or over valuation of energy cost savings or duplicative counting of energy efficiency features or energy cost savings in the valuation of any subject property that is used to determine a loan amount.

(B) ADDITIONAL AUTHORITY.—At the end of the 7-year period following the implementation of enhanced eligibility and underwriting valuation requirements under this section, the Secretary may modify or apply additional exceptions to the approach described in paragraph (2), where the Secretary finds that the unadjusted appraisal will reflect an accurate market value of the efficiency of the subject property or that a modified approach will better reflect an accurate market value.

(7) APPLICABILITY AND IMPLEMENTATION DATE.—Not later than 4 years after the date of enactment of this Act, and before December 31, 2017, each covered agency shall implement the guidelines required under this subsection, which shall—

(A) apply to any covered loan for the sale, or refinancing of any loan for the sale, of any home; and

(B) be available on any residential real property, including individual units of condominiums and cooperatives, that qualifies for a covered loan.

(e) MONITORING.—Not later than 1 year after the date on which the enhanced eligibility and underwriting valuation requirements are implemented under this section, and every year thereafter, each covered agency with relevant activity shall issue and make available to the public a report that—

(1) enumerates the number of covered loans of the agency for which there was an energy efficiency report, and that used energy efficiency appraisal guidelines and enhanced loan eligibility requirements;

(2) includes the default rates and rates of foreclosures for each category of loans; and

(3) describes the risk premium, if any, that the agency has priced into covered loans for which there was an energy efficiency report.

(f) RULEMAKING.—

(1) IN GENERAL.—The Secretary shall prescribe regulations to carry out this section, in consultation with the Secretary of Energy and the advisory group established in paragraph (2), which may contain such classifications, differentiations, or other provisions, and may provide for such proper implementation and appropriate treatment of different types of transactions, as the Secretary determines are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(2) ADVISORY GROUP.—To assist in carrying out this section, the Secretary shall establish an advisory group, consisting of individuals representing the interests of—

(A) mortgage lenders;

(B) appraisers;

(C) energy raters and residential energy consumption experts;

(D) energy efficiency organizations;

(E) real estate agents;

(F) home builders and remodelers;

(G) State energy officials; and

(H) others as determined by the Secretary.

(g) ADDITIONAL STUDY.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall reconvene the advisory group established in subsection (f)(2), in addition to water and locational efficiency experts, to advise the Secretary on the implementation of the enhanced energy efficiency underwriting criteria established in subsections (c) and (d).

(2) RECOMMENDATIONS.—The advisory group established in subsection (f)(2) shall provide recommendations to the Secretary on any revisions or additions to the enhanced energy efficiency underwriting criteria deemed necessary by the group, which may include alternate methods to better account for home energy costs and additional factors to account for substantial and regular costs of homeownership such as location-based transportation costs and water costs. The Secretary shall forward any legislative recommendations from the advisory group to Congress for its consideration.

**Subtitle E—Third Party Testing**

**SEC. 441. VOLUNTARY CERTIFICATION PROGRAMS FOR AIR CONDITIONING, FURNACE, BOILER, HEAT PUMP, AND WATER HEATER PRODUCTS.**

Section 326(b) of the Energy Policy and Conservation Act (42 U.S.C. 6296(b)) is amended by adding at the end the following:

''(6) VOLUNTARY CERTIFICATION PROGRAMS FOR AIR CONDITIONING, FURNACE, BOILER, HEAT PUMP, AND WATER HEATER PRODUCTS.—

''(A) DEFINITION OF BASIC MODEL GROUP.—In this paragraph, the term 'basic model group' means a set of models—

''(i) that share characteristics that allow the performance of 1 model to be generally representative of the performance of other models within the group; and

''(ii) in which the group of products does not necessarily have to share discrete performance.

''(B) RELIANCE ON VOLUNTARY CERTIFICATION PROGRAMS.—For the purpose of testing to verify the performance rating of, or receiving test reports from manufacturers certifying compliance with energy conservation standards and Energy Star specifications established under sections 324A, 325, and 342, the covered products described in paragraphs (3), (4), (5), (9), and (11) of section 322(a) and covered equipment described in subparagraphs (B), (C), (D), (F), (I), (J), and (K) of section 340(1), the Secretary and Administrator shall rely on voluntary certification programs that—

''(i) are nationally recognized;

''(ii) maintain a publicly available list of all certified products and equipment;

''(iii) as determined by the Secretary, annually test not less than 10 percent and not more than 30 percent of the basic model group of a program participant

''(iv) require the changing of the performance rating or removal of the product or equipment from the program, if verification testing determines that the performance rating does not meet the levels the manufacturer has certified to the Secretary;

''(v) require the qualification of new participants in the program through testing and production of test reports;

''(vi) allow for challenge testing of products and equipment within the scope of the program;

''(vii) require program participants to certify the performance rating of all covered products and equipment within the scope of the program;

''(viii) are conducted by a certification body that is accredited under International Organization for Standardization/ International Electrotechnical Commission (ISO/IEC) Standard 17065;

''(ix) provide to the Secretary—

''(I) an annual report of all test results;

''(II) prompt notification when program testing results in—

''(aa) the rerating of the performance rating of a product or equipment; or

''(bb) the delisting of a product or equipment; and

''(III) test reports, on the request of the Secretary or the Administrator, for Energy Star compliant products, which shall be treated as confidential business information as provided for under section 552(b)(4) of title 5, United States Code (commonly known as the ''Freedom of Information Act'');

''(x) use verification testing that—

''(I) is conducted by an independent test laboratory that is accredited under International Organization for Standardization/ International Electrotechnical Commission (ISO/IEC) Standard 17025 with a scope covering the tested products or equipment;

''(II) follows the test procedures established under this title; and

''(III) notes in each test report any instructions specified by the manufacturer or the representative of the manufacturer for the purpose of conducting the verification testing; and

''(xi) satisfy such other requirements as the Secretary has determined—

''(I) are essential to ensure standards compliance; or

''(II) have consensus support achieved through a negotiated rulemaking process.

''(C) ADMINISTRATION.—

''(i) IN GENERAL.—The Secretary shall not require—

''(I) manufacturers to participate in a voluntary certification program described in subparagraph (B); or

''(II) participating manufacturers to provide information that can be obtained through a voluntary certification program described in subparagraph (B).

''(ii) LIST OF COVERED PRODUCTS.—The Secretary or the Administrator may maintain a publicly available list of covered products and equipment certified under a program described in subparagraph (B) that distinguishes between—

''(I) covered products and equipment verified by the program; and

''(II) products not verified by the program.

''(iii) REDUCTION OF REQUIREMENTS.—Any rules promulgated by the Secretary that require testing of products or equipment for certification of performance ratings shall on average reduce requirements and burdens for manufacturers participating in a voluntary certification program described in subparagraph (B) for the products or equipment relative to other manufacturers.

''(iv) PERIODIC TESTING BY PROGRAM NONPARTICIPANTS.—In addition to certification requirements, the Secretary shall require a manufacturer that does not participate in a voluntary certification program described in subparagraph (B)—

''(I) to verify the accuracy of the performance rating of the product or equipment through periodic testing using the testing methods described in clause (iii) or (x) of subparagraph (B); and

''(II) to provide to the Secretary test results and, on request, test reports verifying the certified performance for each basic model group of the manufacturer.

''(v) RESTRICTIONS ON TEST LABORATORIES.—

''(I) IN GENERAL.—Subject to subclause (II), with respect to covered products and equipment, a voluntary certification program described in subparagraph (B) shall not be a test laboratory that conducts the testing on products or equipment within the scope of the program.

''(II) LIMITATION.—Subclause (I) shall not apply to Energy Star specifications established under section 324A.

''(vi) EFFECT ON OTHER AUTHORITY.—Nothing in this paragraph limits the authority of the Secretary or the Administrator to test products or equipment or to enforce compliance with any law (including regulations).''.

**TITLE V—MISCELLANEOUS**

**SEC. 501. OFFSET.**

Section 422(f) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082(f)) is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon at the end; and

(2) by striking paragraph (4) and inserting the following:

''(4) $200,000,000 for fiscal year 2013; and

''(5) $144,000,000 for each of fiscal years 2014 through 2018.''.

**SEC. 502. BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

**SEC. 503. ADVANCE APPROPRIATIONS REQUIRED.**

The authorization of amounts under this Act and the amendments made by this Act shall be effective for any fiscal year only to the extent and in the amount provided in advance in appropriations Acts.

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**SA 3013.** Mr. MCCONNELL (for himself, Mr. VITTER, and Mr. HOEVEN) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

**Subtitle F—Electricity Security and Affordability**

**SEC. 451. SHORT TITLE.**

This subtitle may be cited as the ''Electricity Security and Affordability Act''.

**SEC. 452. STANDARDS OF PERFORMANCE FOR NEW FOSSIL FUEL-FIRED ELECTRIC UTILITY GENERATING UNITS.**

(a) LIMITATION.—The Administrator of the Environmental Protection Agency may not issue, implement, or enforce any proposed or final rule under section 111 of the Clean Air Act (42 U.S.C. 7411) that establishes a standard of performance for emissions of any greenhouse gas from any new source that is a fossil fuel-fired electric utility generating unit unless such rule meets the requirements under subsections (b) and (c).

(b) REQUIREMENTS.—In issuing any rule under section 111 of the Clean Air Act (42 U.S.C. 7411) establishing standards of performance for emissions of any greenhouse gas from new sources that are fossil fuel-fired electric utility generating units, the Administrator of the Environmental Protection Agency (for purposes of establishing such standards)—

(1) shall separate sources fueled with coal and natural gas into separate categories; and

(2) shall not set a standard based on the best system of emission reduction for new sources within a fossil-fuel category unless—

(A) such standard has been achieved on average for at least one continuous 12-month period (excluding planned outages) by each of at least 6 units within such category—

(i) each of which is located at a different electric generating station in the United States;

(ii) which, collectively, are representative of the operating characteristics of electric generation at different locations in the United States; and

(iii) each of which is operated for the entire 12-month period on a full commercial basis; and

(B) no results obtained from any demonstration project are used in setting such standard.

(c) COAL HAVING A HEAT CONTENT OF 8300 OR LESS BRITISH THERMAL UNITS PER POUND.—

(1) SEPARATE SUBCATEGORY.—In carrying out subsection (b)(1), the Administrator of the Environmental Protection Agency shall establish a separate subcategory for new sources that are fossil fuel-fired electric utility generating units using coal with an average heat content of 8300 or less British Thermal Units per pound.

(2) STANDARD.—Notwithstanding subsection (b)(2), in issuing any rule under section 111 of the Clean Air Act (42 U.S.C. 7411) establishing standards of performance for emissions of any greenhouse gas from new sources in such subcategory, the Administrator of the Environmental Protection Agency shall not set a standard based on the best system of emission reduction unless—

(A) such standard has been achieved on average for at least one continuous 12-month period (excluding planned outages) by each of at least 3 units within such subcategory—

(i) each of which is located at a different electric generating station in the United States;

(ii) which, collectively, are representative of the operating characteristics of electric generation at different locations in the United States; and

(iii) each of which is operated for the entire 12-month period on a full commercial basis; and

(B) no results obtained from any demonstration project are used in setting such standard.

(d) TECHNOLOGIES.—Nothing in this section shall be construed to preclude the issuance, implementation, or enforcement of a standard of performance that—

(1) is based on the use of one or more technologies that are developed in a foreign country, but has been demonstrated to be achievable at fossil fuel-fired electric utility generating units in the United States; and

(2) meets the requirements of subsection (b) and (c), as applicable.

**SEC. 453. CONGRESS TO SET EFFECTIVE DATE FOR STANDARDS OF PERFORMANCE FOR EXISTING, MODIFIED, AND RECONSTRUCTED FOSSIL FUEL-FIRED ELECTRIC UTILITY GENERATING UNITS.**

(a) APPLICABILITY.—This section applies with respect to any rule or guidelines issued by the Administrator of the Environmental Protection Agency under section 111 of the Clean Air Act (42 U.S.C. 7411) that—

(1) establish any standard of performance for emissions of any greenhouse gas from any modified or reconstructed source that is a fossil fuel-fired electric utility generating unit; or

(2) apply to the emissions of any greenhouse gas from an existing source that is a fossil fuel-fired electric utility generating unit.

(b) CONGRESS TO SET EFFECTIVE DATE.—A rule or guidelines described in subsection (a) shall not take effect unless a Federal law is enacted specifying such rule's or guidelines' effective date.

(c) REPORTING.—A rule or guidelines described in subsection (a) shall not take effect unless the Administrator of the Environmental Protection Agency has submitted to Congress a report containing each of the following:

(1) The text of such rule or guidelines.

(2) The economic impacts of such rule or guidelines, including the potential effects on—

(A) economic growth, competitiveness, and jobs in the United States;

(B) electricity ratepayers, including low-income ratepayers in affected States;

(C) required capital investments and projected costs for operation and maintenance of new equipment required to be installed; and

(D) the global economic competitiveness of the United States.

(3) The amount of greenhouse gas emissions that such rule or guidelines are projected to reduce as compared to overall global greenhouse gas emissions.

(d) CONSULTATION.—In carrying out subsection (c), the Administrator of the Environmental Protection Agency shall consult with the Administrator of the Energy Information Administration, the Comptroller General of the United States, the Director of the National Energy Technology Laboratory,

and the Under Secretary of Commerce for Standards and Technology.

**SEC. 454. REPEAL OF EARLIER RULES AND GUIDELINES.**

The following rules and guidelines shall be of no force or effect, and shall be treated as though such rules and guidelines had never been issued:

(1) The proposed rule—

(A) entitled ''Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units'', published at 77 Fed. Reg. 22392 (April 13, 2012); and

(B) withdrawn pursuant to the notice entitled ''Withdrawal of Proposed Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units'', signed by the Administrator of the Environmental Protection Agency on September 20, 2013, and identified by docket ID number EPA–HQ–OAR–2011–0660.

(2) The proposed rule entitled ''Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units'', signed by the Administrator of the Environmental Protection Agency on September 20, 2013, identified by docket ID number EPA–HQ–OAR–2013–0495, and published at 79 Fed. Reg. 1430 (January 8, 2014).

(3) With respect to the proposed rule described in paragraph (1), any successor or substantially similar proposed or final rule that—

(A) is issued prior to the date of the enactment of this Act;

(B) is applicable to any new source that is a fossil fuel-fired electric utility generating unit; and

(C) does not meet the requirements under subsections (b) and (c) of section 452.

(4) Any proposed or final rule or guidelines under section 111 of the Clean Air Act (42 U.S.C. 7411) that—

(A) are issued prior to the date of the enactment of this Act; and

(B) establish any standard of performance for emissions of any greenhouse gas from any modified or reconstructed source that is a fossil fuel-fired electric utility generating unit or apply to the emissions of any greenhouse gas from an existing source that is a fossil fuel-fired electric utility generating unit.

**SEC. 455. DEFINITIONS.**

In this subtitle:

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means a project to test or demonstrate the feasibility of carbon capture and storage technologies that has received Federal Government funding or financial assistance.

(2) EXISTING SOURCE.—The term ''existing source'' has the meaning given such term in section 111(a) of the Clean Air Act (42 U.S.C. 7411(a)), except such term shall not include any modified source.

(3) GREENHOUSE GAS.—The term ''greenhouse gas'' means any of the following:

(A) Carbon dioxide.

(B) Methane.

(C) Nitrous oxide.

(D) Sulfur hexafluoride.

(E) Hydrofluorocarbons.

(F) Perfluorocarbons.

(4) MODIFICATION.—The term ''modification'' has the meaning given such term in section 111(a) of the Clean Air Act (42 U.S.C. 7411(a)).

(5) MODIFIED SOURCE.—The term ''modified source'' means any stationary source, the modification of which is commenced after the date of the enactment of this Act.

(6) NEW SOURCE.—The term ''new source'' has the meaning given such term in section 111(a) of the Clean Air Act (42 U.S.C. 7411(a)), except that such term shall not include any modified source.

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**SA 3014.** Mr. COBURN (for himself, Mr. TOOMEY, and Mr. FLAKE) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ____. ELIMINATION OF CORN ETHANOL MANDATE FOR RENEWABLE FUEL.**

(a) REMOVAL OF TABLE.—Section 211(o)(2)(B)(i) of the Clean Air Act (42 U.S.C. 7545(o)(2)(B)(i)) is amended by striking subclause (I).

(b) CONFORMING AMENDMENTS.—Section 211(o)(2)(B) of the Clean Air Act (42 U.S.C. 7545(o)(2)(B)) is amended—

(1) in clause (i)—

(A) by redesignating subclauses (II) through (IV) as subclauses (I) through (III), respectively;

(B) in subclause (I) (as so redesignated), by striking ''of the volume of renewable fuel required under subclause (I),''; and

(C) in subclauses (II) and (III) (as so redesignated), by striking ''subclause (II)'' each place it appears and inserting ''subclause (I)''; and

(2) in clause (v), by striking ''clause (i)(IV)'' and inserting ''clause (i)(III)''.

(c) ADMINISTRATION.—Nothing in this section or the amendments made by this section affects the volumes of advanced biofuel, cellulosic biofuel, or biomass-based diesel that are required under section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)).

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**SA 3015.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, strike line 23 and insert the following:

(c) ADMINISTRATION.—To promote the efficiency and effectiveness of the programs, the Secretary shall—

(1) conduct or collect applicable third-party evaluations on every federally funded energy worker training program established during the 7–year period ending on the date of enactment of this Act, including technical training, on-the-job training, and industry-recognized credentialing programs; and

(2) publish and disseminate evidence-based guidance for the programs after considering the third-party evaluations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is

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**SA 3016.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the beginning of title V, insert the following:

**SEC. 5____. WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS.**

Section 415 of the Energy Conservation and Production Act (42 U.S.C. 6865) is amended by adding at the end the following:

''(f) ADMINISTRATION.—

''(1) IN GENERAL.—A State shall use up to 8 percent of any grant made by the Secretary under this part to track applicants for and recipients of weatherization assistance under this part to determine the impact of the assistance and eliminate or reduce reliance on the assistance over a period of not more than 3 years.

''(2) ANNUAL STATE PLANS.—A State may submit to the Secretary for approval within 90 days an annual plan for the administration of assistance under this part in the State that includes, at the option of the State—

''(A) local income eligibility standards for the assistance that are not based on the formula that are used to allocate assistance under this part; and

''(B) the establishment of revolving loan funds for multifamily affordable housing units.''.

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**SA 3017.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

In section 111, strike subsection (b) and insert the following:

(b) NONDUPLICATION.—The Secretary shall coordinate with the Secretary of Labor and the Secretary of Education prior to issuing any funding opportunity announcements under this Act to ensure that duplication does not occur.

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**SA 3018.** Mr. FLAKE (for himself, Mr. MCCAIN, and Mrs. FISCHER) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the beginning of title V, insert the following:

**SEC. 5____. OFFSETS FOR INCREASED COSTS TO FEDERAL AGENCIES FOR REGULATIONS LIMITING GREENHOUSE GAS EMISSIONS.**

(a) IN GENERAL.—If the Administrator of the Environmental Protection Agency proposes a rule that limits greenhouse gas emissions and imposes increased costs on 1 or more other Federal agencies, the Administrator shall include in the proposed rule an offset from funds available to the Administrator for all projected increased costs that the proposed rule would impose on other Federal agencies.

(b) NO OFFSETS.—If the Administrator proposes a rule that limits greenhouse gas emissions and imposes increased costs on 1 or more other Federal agencies but does not provide an offset in accordance with paragraph (1), the Administrator may not finalize the rule until the promulgation of the final rule is approved by law.

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**SA 3019.** Mr. FLAKE (for himself, Mr. TOOMEY, and Mrs. FISCHER) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 5, strike line 17 and all that follows through page 6, line 11, and insert the following:

''(A) IN GENERAL.—If a State or Indian tribe has submitted written notification to the Secretary that the State or Indian tribe has decided to participate in the program

under this section, not later than 2 years after the date on which a model building energy code is updated, each participating State or Indian tribe shall certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively.

''(B) DEMONSTRATION.—The certification shall include a demonstration of whether or not the energy savings for the code provisions that are in effect throughout the State or Indian tribal territory meet or exceed—

''(i) the energy savings of the updated model building energy code; or

''(ii) the targets established under section 307(b)(2).

''(C) NO MODEL BUILDING ENERGY CODE UPDATE.—If a model building energy code is not updated by a target date established under section 307(b)(2)(D), the participating State or Indian tribe.

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**SA 3020.** Mr. FLAKE (for himself, Mrs. FISCHER, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

Strike subtitles C and D of title II.

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**SA 3021.** Mr. FLAKE submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, lines 14 through 16, strike '', and verification of compliance with and enforcement of a code other than by a State or local government''.

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**SA 3022.** Mr. BENNET (for himself, Mr. COBURN, Mr. CARPER, and Ms. AYOTTE) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

After section 303, insert the following:

**SEC. 304. FEDERAL DATA CENTER CONSOLIDATION.**

(a) SHORT TITLE.—This section may be cited as the ''Data Center Consolidation Act of 2014''.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator for the Office of E-Government and Information Technology within the Office of Management and Budget.

(2) COVERED AGENCY.—The term ''covered agency'' means the following (including all associated components of the agency):

(A) Department of Agriculture;

(B) Department of Commerce;

(C) Department of Defense;

(D) Department of Education;

(E) Department of Energy;

(F) Department of Health and Human Services;

(G) Department of Homeland Security;

(H) Department of Housing and Urban Development;

(I) Department of the Interior;

(J) Department of Justice;

(K) Department of Labor;

(L) Department of State;

(M) Department of Transportation;

(N) Department of Treasury;

(O) Department of Veterans Affairs;

(P) Environmental Protection Agency;

(Q) General Services Administration;

(R) National Aeronautics and Space Administration;

(S) National Science Foundation;

(T) Nuclear Regulatory Commission;

(U) Office of Personnel Management;

(V) Small Business Administration;

(W) Social Security Administration; and

(X) United States Agency for International Development.

(3) FDCCI.—The term ''FDCCI'' means the Federal Data Center Consolidation Initiative described in the Office of Management and Budget Memorandum on the Federal Data Center Consolidation Initiative, dated February 26, 2010, or any successor thereto.

(4) GOVERNMENT-WIDE DATA CENTER CONSOLIDATION AND OPTIMIZATION METRICS.—The term ''Government-wide data center consolidation and optimization metrics'' means the metrics established by the Administrator under subsection (c)(2)(G).

(c) FEDERAL DATA CENTER CONSOLIDATION INVENTORIES AND STRATEGIES.—

(1) IN GENERAL.—

(A) ANNUAL REPORTING.—Except as provided in subparagraph (C), beginning in the first fiscal year after the date of enactment of this Act and each fiscal year thereafter, the head of each covered agency, assisted by the Chief Information Officer of the agency, shall submit to the Administrator—

(i) a comprehensive inventory of the data centers owned, operated, or maintained by or on behalf of the agency; and

(ii) a multi-year strategy to achieve the consolidation and optimization of the data centers inventoried under clause (i), that includes—

(I) performance metrics—

(aa) that are consistent with the Government-wide data center consolidation and optimization metrics; and

(bb) by which the quantitative and qualitative progress of the agency toward the goals of the FDCCI can be measured;

(II) a timeline for agency activities to be completed under the FDCCI, with an emphasis on benchmarks the agency can achieve by specific dates;

(III) year-by-year calculations of investment and cost savings for the period beginning on the date of enactment of this Act and ending on the date described in subsection (f), broken down by each year, including a description of any initial costs for data center consolidation and optimization and life cycle cost savings and other improvements, with an emphasis on—

(aa) meeting the Government-wide data center consolidation and optimization metrics; and

(bb) demonstrating the amount of agency-specific cost savings each fiscal year achieved through the FDCCI; and

(IV) any additional information required by the Administrator.

(B) USE OF OTHER REPORTING STRUCTURES.—The Administrator may require a covered agency to include the information required to be submitted under this subsection through reporting structures determined by the Administrator to be appropriate.

(C) DEPARTMENT OF DEFENSE REPORTING.—For any year that the Department of Defense is required to submit a performance plan for reduction of resources required for data servers and centers, as required under section 2867(b) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note), the Department of Defense—

(i) may submit to the Administrator, in lieu of the multi-year strategy required under subparagraph (A)(ii)—

(I) the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note); and

(II) the report on cost savings required under section 2867(d) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note); and

(ii) shall submit the comprehensive inventory required under subparagraph (A)(i), unless the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note)—

(I) contains a comparable comprehensive inventory; and

(II) is submitted under clause (i).

(D) STATEMENT.—Beginning in the first fiscal year after the date of enactment of this Act and each fiscal year thereafter, the head of each covered agency, acting through the Chief Information Officer of the agency, shall—

(i)(I) submit a statement to the Administrator stating whether the agency has complied with the requirements of this section; and

(II) make the statement submitted under subclause (I) publically available; and

(ii) if the agency has not complied with the requirements of this section, submit a statement to the Administrator explaining the reasons for not complying with such requirements.

(E) AGENCY IMPLEMENTATION OF STRATEGIES.—

(i) IN GENERAL.—Each covered agency, under the direction of the Chief Information Officer of the agency, shall—

(I) implement the strategy required under subparagraph (A)(ii); and

(II) provide updates to the Administrator, on a quarterly basis, of—

(aa) the completion of activities by the agency under the FDCCI;

(bb) any progress of the agency towards meeting the Government-wide data center consolidation and optimization metrics; and

(cc) the actual cost savings and other improvements realized through the implementation of the strategy of the agency.

(ii) DEPARTMENT OF DEFENSE.—For purposes of clause (i)(I), implementation of the defense-wide plan required under section 2867(b)(2) of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 2223a note) by the Department of Defense shall be considered implementation of the strategy required under subparagraph (A)(ii).

(F) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the reporting of information by a covered agency to the Administrator, the Director of the Office of Management and Budget, or Congress.

(2) ADMINISTRATOR RESPONSIBILITIES.—The Administrator shall—

(A) establish the deadline, on an annual basis, for covered agencies to submit information under this section;

(B) establish a list of requirements that the covered agencies must meet to be considered in compliance with paragraph (1);

(C) ensure that information relating to agency progress towards meeting the Government-wide data center consolidation and optimization metrics is made available in a timely manner to the general public;

(D) review the inventories and strategies submitted under paragraph (1) to determine whether they are comprehensive and complete;

(E) monitor the implementation of the data center strategy of each covered agency that is required under paragraph (1)(A)(ii);

(F) update, on an annual basis, the cumulative cost savings realized through the implementation of the FDCCI; and

(G) establish metrics applicable to the consolidation and optimization of data centers

Government-wide, including metrics with respect to—

(i) costs;

(ii) efficiencies, including at least server efficiency; and

(iii) any other metrics the Administrator establishes under this subparagraph.

(3) COST SAVING GOAL AND UPDATES FOR CONGRESS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall develop, and make publically available, a goal, broken down by year, for the amount of planned cost savings and optimization improvements achieved through the FDCCI during the period beginning on the date of enactment of this Act and ending on the date described in subsection (f).

(B) ANNUAL UPDATE.—

(i) IN GENERAL.—Not later than 1 year after the date on which the goal described in subparagraph (A) is made publically available, and each year thereafter, the Administrator shall aggregate the reported cost savings of each covered agency and optimization improvements achieved to date through the FDCCI and compare the savings to the projected cost savings and optimization improvements developed under subparagraph (A).

(ii) UPDATE FOR CONGRESS.—The goal required to be developed under subparagraph (A) shall be submitted to Congress and shall be accompanied by a statement describing—

(I) whether each covered agency has in fact submitted a comprehensive asset inventory, including an assessment broken down by agency, which shall include the specific numbers, utilization, and efficiency level of data centers; and

(II) whether each covered agency has submitted a comprehensive consolidation strategy with the key elements described in paragraph (1)(A)(ii).

(4) GAO REVIEW.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Comptroller General of the United States shall review and verify the quality and completeness of the asset inventory and strategy of each covered agency required under paragraph (1)(A).

(B) REPORT.—The Comptroller General of the United States shall, on an annual basis, publish a report on each review conducted under subparagraph (A).

(d) ENSURING CYBERSECURITY STANDARDS FOR DATA CENTER CONSOLIDATION AND CLOUD COMPUTING.—

(1) IN GENERAL.—In implementing a data center consolidation and optimization strategy under this section, a covered agency shall do so in a manner that is consistent with Federal guidelines on cloud computing security, including—

(A) applicable provisions found within the Federal Risk and Authorization Management Program (FedRAMP); and

(B) guidance published by the National Institute of Standards and Technology.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the ability of the Director of the Office of Management and Budget to update or modify the Federal guidelines on cloud computing security.

(e) WAIVER OF DISCLOSURE REQUIREMENTS.—The Director of National Intelligence may waive the applicability to any element (or component of an element) of the intelligence community of any provision of this section if the Director of National Intelligence determines that such waiver is in the interest of national security. Not later than 30 days after making a waiver under this subsection, the Director of National Intelligence shall submit to the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate and the Committee on Oversight and Government Reform and the Permanent Select Committee on Intelligence of the House of Representatives a statement describing the waiver and the reasons for the waiver.

(f) SUNSET.—This section is repealed effective on October 1, 2018.

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**SA 3023.** Mr. REID proposed an amendment to amendment SA 3012 submitted by Mrs. SHAHEEN (for herself and Mr. PORTMAN) to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; as follows:

At the end, add the following:

This Act shall become effective 1 day after enactment.

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**SA 3024.** Mr. REID proposed an amendment to amendment SA 3023 proposed by Mr. REID to the amendment SA 3012 submitted by Mrs. SHAHEEN (for herself and Mr. PORTMAN) to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; as follows:

In the amendment, strike ''1 day'' and insert ''2 days''.

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**SA 3025.** Mr. REID proposed an amendment to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; as follows:

At the end, add the following:

This Act shall become effective 3 days after enactment.

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**SA 3026.** Mr. REID proposed an amendment to amendment SA 3025 proposed by Mr. REID to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; as follows:

In the amendment, strike ''3 days'' and insert ''4 days''.

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**SA 3027.** Mr. REID proposed an amendment to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; as follows:

At the end, add the following:

This Act shall become effective 5 days after enactment.

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**SA 3028.** Mr. REID proposed an amendment to amendment SA 3027 proposed by Mr. REID to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; as follows:

In the amendment, strike ''5 days'' and insert ''6 days''.

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**SA 3029.** Mr. REID proposed an amendment to amendment SA 3028 proposed by Mr. REID to the amendment SA 3027 proposed by Mr. REID to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; as follows:

In the amendment, strike ''6 days'' and insert ''7 days''.

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**SA 3030.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the beginning of title V, insert the following:

**SEC. 5_____. TRANSPARENCY AND FISCAL ACCOUNTABILITY.**

(a) IN GENERAL.—Notwithstanding any other provision of law (including regulations), the Administrator of the Environmental Protection Agency shall track the use of taxpayer funds relating to the rulemaking processes of the Environmental Protection Agency that impact energy development, production, or generation, economic development, or job creation.

(b) REPORT.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency shall submit to Congress and post on the website of the Environmental Protection Agency an annual report detailing the results of the evaluation under subsection (a).

(2) CONTENTS.—The annual report under paragraph (1) shall include a description of—

(A) the administrative costs associated with the rulemaking processes, including the personnel costs;

(B) the costs associated with holding public hearings and meetings;

(C) travel costs; and

(D) third-party expenses, such as the costs associated with hiring consultants and scientists.

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**SA 3031.** Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the beginning of title V, insert the following:

**SEC. 5_____. COOPERATIVE FEDERALISM.**

Notwithstanding any other provision of law (including regulations), on the request of a State, the Administrator of the Environmental Protection Agency shall provide the State not less than 120 additional days to review and comment on any proposed regulation of the Environmental Protection Agency that the State determines will have an impact on energy development, production, or generation, economic development, or job creation in the State.

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**SA 3032.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

On page 134, after line 25, add the following:

**SEC. 5_____. CONVEYANCE TO STATES OF PROPERTY INTEREST IN STATE SHARE OF ROYALTIES AND OTHER PAYMENTS.**

Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended—

(1) in the first sentence of subsection (a), by striking ''shall be paid into the Treasury'' and inserting ''shall, except as provided in subsection (d), be paid into the Treasury'';

(2) in subsection (c)(1), by inserting ''and except as provided in subsection (d)'' before '', any rentals''; and

(3) by adding at the end the following:

''(d) CONVEYANCE TO STATES OF PROPERTY INTEREST IN STATE SHARE.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, on request of a State

(other than the State of Alaska) and in lieu of any payments to the State under subsection (a), the Secretary of the Interior shall convey to the State all right, title, and interest in and to 50 percent of all amounts otherwise required to be paid into the Treasury under subsection (a) from sales, bonuses, royalties (including interest charges), and rentals for all public land or deposits located in the State.

''(2) STATE OF ALASKA.—Notwithstanding any other provision of law, on request of the State of Alaska and in lieu of any payments to the State under subsection (a), the Secretary of the Interior shall convey to the State all right, title, and interest in and to 90 percent of all amounts otherwise required to be paid into the Treasury under subsection (a) from sales, bonuses, royalties (including interest charges), and rentals for all public land or deposits located in the State.

''(3) AMOUNT.—Notwithstanding any other provision of law, after a conveyance to a State under paragraph (1) or (2), any person shall pay directly to the State any amount owed by the person for which the right, title, and interest has been conveyed to the State under this subsection.

''(4) NOTICE.—The Secretary of the Interior shall promptly provide to each holder of a lease of public land to which subsection (a) applies that are located in a State to which right, title, and interest is conveyed under this subsection notice that—

''(A) the Secretary of the Interior has conveyed to the State all right, title, and interest in and to the amounts referred to in paragraph (1) or (2); and

''(B) the leaseholder is required to pay the amounts directly to the State.''.

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**SA 3033.** Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**SEC. 5_____. REGIONAL HAZE PROGRAM.**

Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator'') shall not reject or disapprove in whole or in part a State regional haze implementation plan addressing any regional haze regulation of the Environmental Protection Agency (including the regulations described in section 51.308 of title 40, Code of Federal Regulations (or successor regulations)) if—

(1) the State has submitted to the Administrator a State implementation plan for regional haze that—

(A) considers the factors identified in section 169A of the Clean Air Act (42 U.S.C. 7491); and

(B) applies the relevant laws (including regulations);

(2) the Administrator fails to demonstrate using the best available science that a Federal implementation plan action governing a specific source, when compared to the State plan, results in at least a 1.0 deciview improvement in any class I area (as classified under section 162 of the Clean Air Act (42 U.S.C. 7472)); and

(3) implementation of the Federal implementation plan, when compared to the State plan, will result in an economic cost to the State or to the private sector of greater than $100,000,000 in any fiscal year or $300,000,000 in the aggregate.

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**SA 3034.** Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the beginning of title V, insert the following:

**SEC. 5_____. FEDERAL VEHICLE REPAIR COST SAVINGS.**

(a) FINDINGS.—Congress finds that, in March 2013, the Government Accountability Office issued a report that confirmed that—

(1) there are approximately 588,000 vehicles in the civilian Federal fleet;

(2) Federal agencies spent approximately $975,000,000 on repair and maintenance of the Federal fleet in 2011;

(3) remanufactured vehicle components, such as engines, starters, alternators, steering racks, and clutches, tend to be less expensive than comparable new replacement parts; and

(4) the United States Postal Service and the Department of the Interior both informed the Government Accountability Office that the respective agencies rely on the use of remanufactured vehicle components to reduce costs.

(b) REQUIREMENT TO USE REMANUFACTURED VEHICLE COMPONENTS.—

(1) DEFINITIONS.—In this subsection:

(A) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given that term in section 102 of title 40, United States Code.

(B) REMANUFACTURED VEHICLE COMPONENT.—The term ''remanufactured vehicle component'' means a vehicle component (including an engine, transmission, alternator, starter, turbocharger, steering, or suspension component) that has been returned to same-as-new, or better, condition and performance by a standardized industrial process that incorporates technical specifications (including engineering, quality, and testing standards) to yield fully warranted products.

(2) REQUIREMENT.—The head of each Federal agency shall encourage the use of remanufactured vehicle components to maintain Federal vehicles—

(A) if using those components reduces the cost while maintaining quality; but

(B) not if using those components—

(i) does not reduce the cost of maintaining Federal vehicles;

(ii) lowers the quality of vehicle performance, as determined by the employee of the Federal agency responsible for the repair decision; or

(iii) delays the return to service of a vehicle.

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**SA 3035.** Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. PROHIBITION ON NEW RULES FOR AUTOMATIC COMMERCIAL ICE MAKERS.**

Notwithstanding any other provision of law, the Secretary of Energy shall not propose or finalize any new rule to increase energy conservation or efficiency standards for automatic commercial ice makers, including the proposed rule entitled ''Energy Conservation Program: Energy Conservation Standards for Automatic Commercial Ice Makers'' (79 Fed. Reg. 14846 (March 17, 2014)).

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**SA 3036.** Mr. TOOMEY (for himself and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the beginning of title V, insert the following:

**SEC. 5_____. ELECTRIC GENERATING UNIT COMPLIANCE DELAY FOR CERTAIN EPA RULES.**

(a) DEFINITION OF COAL REFUSE.—

(1) IN GENERAL.—In this section, the term ''coal refuse'' means any waste coal, rock, shale, slurry, culm, gob, boney, slate, clay and related materials, associated with or near a coal seam, that are—

(A) brought aboveground or otherwise removed from a coal mine in the process of mining coal; or

(B) separated from coal during cleaning or preparation operations.

(2) INCLUSIONS.—The term ''coal refuse'' includes underground development waste, coal processing waste, and excess spoil.

(b) COMPLIANCE DELAY.—An electric generating unit that uses coal refuse as the primary feedstock of the electric generating unit shall be exempt from the rule of the Environmental Protection Agency entitled ''National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units'' (77 Fed. Reg. 9304 (February 16, 2012)) until December 31, 2017.

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**SA 3037.** Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. PROHIBITION ON NEW RULES FOR RESIDENTIAL BOILERS.**

Notwithstanding any other provision of law, the Secretary of Energy shall not propose or finalize any new rule to increase energy conservation or efficiency standards for residential boilers, including proposals described in the Department of Energy document entitled ''Energy Conservation Standards for Residential Boilers: Availability of Analytical Results and Modeling Tools'' (79 Fed. Reg. 8122 (February 11, 2014)).

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**SA 3038.** Mr. UDALL of Colorado (for himself, Mr. BEGICH, and Ms. HEITKAMP) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

**SEC. 5___. EXPEDITED APPROVAL OF EXPORTATION OF NATURAL GAS TO WORLD TRADE ORGANIZATION MEMBER COUNTRIES.**

(a) IN GENERAL.—Section 3(c) of the Natural Gas Act (15 U.S.C. 717b(c)) is amended—

(1) by striking ''(c) For purposes'' and inserting the following:

''(c) EXPEDITED APPLICATION AND APPROVAL PROCESS.—

''(1) DEFINITION OF WORLD TRADE ORGANIZATION MEMBER COUNTRY.—In this subsection, the term 'World Trade Organization member country' has the meaning given the term

'WTO member country' in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

''(2) EXPEDITED APPLICATION AND APPROVAL PROCESS.—For purposes''; and

(2) in paragraph (2) (as so designated), by inserting ''or to a World Trade Organization member country'' after ''trade in natural gas''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for the authorization to export natural gas under section 3 of the Natural Gas Act (15 U.S.C. 717b) that are pending on, or filed on or after, the date of enactment of this Act.

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**SA 3039.** Mr. UDALL of Colorado (for himself and Mr. MARKEY) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 501 and insert the following:

**SEC. 5_____. ACCESS TO CONSUMER ENERGY INFORMATION (E-ACCESS).**

(a) IN GENERAL.—The Secretary shall encourage and support the adoption of policies that allow electricity consumers access to their own electricity data.

(b) ELIGIBILITY FOR STATE ENERGY PLANS.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) in paragraph (16), by striking ''and'' after the semicolon at the end;

(2) by redesignating paragraph (17) as paragraph (18); and

(3) by inserting after paragraph (16) the following:

''(17) programs—

''(A) to enhance consumer access to and understanding of energy usage and price information, including consumers' own residential and commercial electricity information; and

''(B) to allow for the development and adoption of innovative products and services to assist consumers in managing energy consumption and expenditures; and''.

(c) VOLUNTARY GUIDELINES FOR ELECTRIC CONSUMER ACCESS.—

(1) DEFINITIONS.—In this subsection:

(A) RETAIL ELECTRIC ENERGY INFORMATION.—The term ''retail electric energy information'' means—

(i) the electric energy consumption of an electric consumer over a defined time period;

(ii) the retail electric energy prices or rates applied to the electricity usage for the defined time period described in clause (i) for the electric consumer;

(iii) the estimated cost of service by the consumer, including (if smart meter usage information is available) the estimated cost of service since the last billing cycle of the consumer; and

(iv) in the case of nonresidential electric meters, any other electrical information that the meter is programmed to record (such as demand measured in kilowatts, voltage, frequency, current, and power factor).

(B) SMART METER.—The term ''smart meter'' means the device used by an electric utility that—

(i)(I) measures electric energy consumption by an electric consumer at the home or facility of the electric consumer in intervals of 1 hour or less; and

(II) is capable of sending electric energy usage information through a communications network to the electric utility; or

(ii) meets the guidelines issued under paragraph (2).

(2) VOLUNTARY GUIDELINES FOR ELECTRIC CONSUMER ACCESS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, subject to subparagraph (B), the Secretary shall issue voluntary guidelines that establish model standards for implementation of retail electric energy information access in States.

(B) CONSULTATION.—Before issuing the voluntary guidelines, the Secretary shall—

(i) consult with—

(I) State and local regulatory authorities, including the National Association of Regulatory Utility Commissioners;

(II) other appropriate Federal agencies, including the National Institute of Standards and Technology;

(III) consumer and privacy advocacy groups;

(IV) utilities;

(V) the National Association of State Energy Officials; and

(VI) other appropriate entities, including groups representing commercial and residential building owners and groups that represent demand response and electricity data devices and services; and

(ii) provide notice and opportunity for comment.

(C) STATE AND LOCAL REGULATORY ACTION.—In issuing the voluntary guidelines, the Secretary shall, to the maximum extent practicable, be guided by actions taken by State and local regulatory authorities to ensure electric consumer access to retail electric energy information, including actions taken after consideration of the standard established under section 111(d)(17) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)(17)).

(D) CONTENTS.—

(i) IN GENERAL.—The voluntary guidelines shall provide guidance on issues necessary to carry out this subsection, including—

(I) the timeliness and specificity of retail electric energy information;

(II) appropriate nationally recognized open standards for data;

(III) the protection of data security and electric consumer privacy, including consumer consent requirements; and

(IV) issues relating to access of electric energy information for owners and managers of multitenant commercial and residential buildings.

(ii) INCLUSIONS.—The voluntary guidelines shall include guidance that—

(I) retail electric energy information should be made available to electric consumers (and third party designees of the electric consumers) in the United States—

(aa) in an electronic machine readable form, without additional charge, in conformity with nationally recognized open standards developed by a nationally recognized standards organization;

(bb) as timely as is reasonably practicable;

(cc) at the level of specificity that the data is transmitted by the meter or as is reasonably practicable; and

(dd) in a manner that provides adequate protections for the security of the information and the privacy of the electric consumer;

(II) in the case of an electric consumer that is served by a smart meter that can also communicate energy usage information to a device or network of an electric consumer or a device or network of a third party authorized by the consumer, the feasibility should be considered of providing to the consumer or third party designee, at a minimum, access to usage information (not including price information) of the consumer directly from the smart meter;

(III) retail electric energy information should be provided by the electric utility of the consumer or such other entity as may be designated by the applicable electric retail regulatory authority;

(IV) retail electric energy information of the consumer should be made available to the consumer through a website or other electronic access authorized by the electric consumer, for a period of at least 13 months after the date on which the usage occurred;

(V) consumer access to data, including data provided to owners and managers of commercial and multifamily buildings with multiple tenants, should not interfere with or compromise the integrity, security, or privacy of the operations of a utility and the electric consumer;

(VI) electric energy information relating to usage information generated by devices in or on the property of the consumer that is transmitted to the electric utility should be made available to the electric consumer or the third party agent designated by the electric consumer; and

(VII) the same privacy and security requirements applicable to the contracting utility should apply to third party agents contracting with a utility to process the customer data of that utility.

(E) REVISIONS.—The Secretary shall periodically review and, as necessary, revise the voluntary guidelines to reflect changes in technology, privacy needs, and the market for electric energy and services.

(d) VERIFICATION AND IMPLEMENTATION.—

(1) IN GENERAL.—A State may submit to the Secretary a description of the data sharing policies of the State relating to consumer access to electric energy information for certification by the Secretary that the policies meet the voluntary guidelines issued under subsection (c)(2).

(2) ASSISTANCE.—Subject to the availability of funds under paragraph (3), the Secretary shall make Federal amounts available to any State that has data sharing policies described in paragraph (1) that the Secretary certifies meets the voluntary guidelines issued under subsection (c)(2) to assist the State in implementing section 362(d)(17) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)(17)).

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for fiscal year 2015, to remain available until expended.

**SEC. 5_____. OFFSET.**

Section 422(f) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082(f)) is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon at the end; and

(2) by striking paragraph (4) and inserting the following:

''(4) $200,000,000 for each of fiscal years 2013 and 2014;

''(5) $145,000,000 for fiscal year 2015; and

''(6) $100,000,000 for each of fiscal years 2016 through 2018.''.

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**SA 3040.** Mr. UDALL of Colorado (for himself, Mr. BEGICH, and Ms. HEITKAMP) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the beginning of title V, insert the following:

**SEC. 5___. NATURAL GAS EXPORTS.**

(a) DECISION DEADLINE.—

(1) IN GENERAL.—The Secretary shall issue a final decision, or a conditional decision in the case of an application that has not completed the review required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on any application for authorization to export natural gas under section 3

of the Natural Gas Act (15 U.S.C. 717b) not later than 90 days after the later of—

(A) the end of the comment period for the decision as set forth in the applicable notice published in the Federal Register; or

(B) the date of enactment of this Act.

(2) CONDITIONAL DECISION.—If the Secretary issues a conditional decision pursuant to paragraph (1), the Secretary shall issue a final decision on any application for authorization to export natural gas under section 3 of the Natural Gas Act (15 U.S.C. 717b) not later than 60 days after conclusion of the review required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) JUDICIAL ACTION.—

(1) IN GENERAL.—The United States Court of Appeals for the circuit in which the export facility will be located pursuant to an application described in subsection (a) shall have original and exclusive jurisdiction over any civil action for the review of —

(A) an order issued by the Secretary with respect to the application; or

(B) the failure of the Secretary to issue a decision on the application.

(2) ORDER.—If the Court in a civil action described in paragraph (1) finds that the Secretary has failed to issue a decision on the application as required under subsection (a), the Court shall order the Secretary to issue the decision not later than 30 days after the order of the Court.

(3) EXPEDITED CONSIDERATION.—The Court shall—

(A) set any civil action brought under this subsection for expedited consideration; and

(B) set the matter on the docket as soon as practicable after the filing date of the initial pleading.

(c) PUBLIC DISCLOSURE OF EXPORT DESTINATIONS.—Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding at the end the following:

''(g) PUBLIC DISCLOSURE OF LIQUEFIED NATURAL GAS EXPORT DESTINATIONS.—

''(1) IN GENERAL.—In the case of any authorization to export liquefied natural gas, the Secretary of Energy shall require the applicant to report to the Secretary of Energy the names of the 1 or more countries of destination to which the exported liquefied natural gas is delivered.

''(2) TIMING.—The applicant shall file the report required under paragraph (1) not later than—

''(A) in the case of the first export, the last day of the month following the month of the first export; and

''(B) in the case of subsequent exports, the date that is 30 days after the last day of the applicable month concerning the activity of the previous month.

''(3) DISCLOSURE.—The Secretary of Energy shall publish the information reported under this subsection on the website of the Department of Energy and otherwise make the information available to the public.''.

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**SA 3041.** Ms. KLOBUCHAR (for herself and Mr. HOEVEN) submitted an amendment intended to be proposed by her to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

On page 134, after line 25, add the following:

**SEC. 5_____. ENERGY EFFICIENCY RETROFIT PILOT PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) APPLICANT.—The term ''applicant'' means a nonprofit organization that applies for a grant under this section.

(2) ENERGY-EFFICIENCY IMPROVEMENT.—

(A) IN GENERAL.—The term ''energy-efficiency improvement'' means an installed measure (including a product, equipment, system, service, or practice) that results in a reduction in use by a nonprofit organization for energy or fuel supplied from outside the nonprofit building.

(B) INCLUSIONS.—The term ''energy-efficiency improvement'' includes an installed measure described in subparagraph (A) involving—

(i) repairing, replacing, or installing—

(I) a roof or lighting system, or component of a roof or lighting system;

(II) a window;

(III) a door, including a security door; or

(IV) a heating, ventilation, or air conditioning system or component of the system (including insulation and wiring and plumbing improvements needed to serve a more efficient system);

(ii) a renewable energy generation or heating system, including a solar, photovoltaic, wind, geothermal, or biomass (including wood pellet) system or component of the system; and

(iii) any other measure taken to modernize, renovate, or repair a nonprofit building to make the nonprofit building more energy efficient.

(3) NONPROFIT BUILDING.—

(A) IN GENERAL.—The term ''nonprofit building'' means a building operated and owned by a nonprofit organization.

(B) INCLUSIONS.—The term ''nonprofit building'' includes a building described in subparagraph (A) that is—

(i) a hospital;

(ii) a youth center;

(iii) a school;

(iv) a social-welfare program facility;

(v) a faith-based organization; and

(vi) any other nonresidential and noncommercial structure.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a pilot program to award grants for the purpose of retrofitting nonprofit buildings with energy-efficiency improvements.

(c) GRANTS.—

(1) IN GENERAL.—The Secretary may award grants under the program established under subsection (b).

(2) APPLICATION.—The Secretary may award a grant under this section if an applicant submits to the Secretary an application at such time, in such form, and containing such information as the Secretary may prescribe.

(3) CRITERIA FOR GRANT.—In determining whether to award a grant under this section, the Secretary shall apply performance-based criteria, which shall give priority to applications based on—

(A) the energy savings achieved;

(B) the cost-effectiveness of the energy-efficiency improvement;

(C) an effective plan for evaluation, measurement, and verification of energy savings;

(D) the financial need of the applicant; and

(E) the percentage of the matching contribution by the applicant.

(4) LIMITATION ON INDIVIDUAL GRANT AMOUNT.—Each grant awarded under this section shall not exceed—

(A) an amount equal to 50 percent of the energy-efficiency improvement; and

(B) $200,000.

(5) COST SHARING.—

(A) IN GENERAL.—A grant awarded under this section shall be subject to a minimum non-Federal cost-sharing requirement of 50 percent.

(B) IN-KIND CONTRIBUTIONS.—The non-Federal share may be provided in the form of in-kind contributions of materials or services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2014 through 2018, to remain available until expended.

(e) OFFSET.—Section 942(f) of the Energy Policy Act of 2005 (42 U.S.C. 16251(f)) is amended by striking ''$250,000,000'' and inserting ''$200,000,000''.

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**SA 3042.** Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE VI—METAL THEFT PREVENTION ACT**

**SEC. 601. SHORT TITLE.**

This title may be cited as the ''Metal Theft Prevention Act of 2014''.

**SEC. 602. DEFINITIONS.**

In this title—

(1) the term ''critical infrastructure'' has the meaning given the term in section 1016(e) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (42 U.S.C. 5195c(e));

(2) the term ''specified metal'' means metal that—

(A)(i) is marked with the name, logo, or initials of a city, county, State, or Federal government entity, a railroad, an electric, gas, or water company, a telephone company, a cable company, a retail establishment, a beer supplier or distributor, or a public utility; or

(ii) has been altered for the purpose of removing, concealing, or obliterating a name, logo, or initials described in clause (i) through burning or cutting of wire sheathing or other means; or

(B) is part of—

(i) a street light pole or street light fixture;

(ii) a road or bridge guard rail;

(iii) a highway or street sign;

(iv) a water meter cover;

(v) a storm water grate;

(vi) unused or undamaged building construction or utility material;

(vii) a historical marker;

(viii) a grave marker or cemetery urn;

(ix) a utility access cover; or

(x) a container used to transport or store beer with a capacity of 5 gallons or more;

(C) is a wire or cable commonly used by communications and electrical utilities; or

(D) is copper, aluminum, and other metal (including any metal combined with other materials) that is valuable for recycling or reuse as raw metal, except for—

(i) aluminum cans; and

(ii) motor vehicles, the purchases of which are reported to the National Motor Vehicle Title Information System (established under section 30502 of title 49); and

(3) the term ''recycling agent'' means any person engaged in the business of purchasing specified metal for reuse or recycling, without regard to whether that person is engaged in the business of recycling or otherwise processing the purchased specified metal for reuse.

**SEC. 603. THEFT OF SPECIFIED METAL.**

(a) OFFENSE.—It shall be unlawful to knowingly steal specified metal—

(1) being used in or affecting interstate or foreign commerce; and

(2) the theft of which is from and harms critical infrastructure.

(b) PENALTY.—Any person who commits an offense described in subsection (a) shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

**SEC. 604. DOCUMENTATION OF OWNERSHIP OR AUTHORITY TO SELL.**

(a) OFFENSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for a recycling agent to purchase specified metal described in subparagraph (A) or (B) of section 602(2), unless—

(A) the seller, at the time of the transaction, provides documentation of ownership of, or other proof of the authority of the seller to sell, the specified metal; and

(B) there is a reasonable basis to believe that the documentation or other proof of authority provided under subparagraph (A) is valid.

(2) EXCEPTION.—Paragraph (1) shall not apply to a recycling agent that is subject to a State or local law that sets forth a requirement on recycling agents to obtain documentation of ownership or proof of authority to sell specified metal before purchasing specified metal.

(3) RESPONSIBILITY OF RECYCLING AGENT.—A recycling agent is not required to independently verify the validity of the documentation or other proof of authority described in paragraph (1).

(4) PURCHASE OF STOLEN METAL.—It shall be unlawful for a recycling agent to purchase any specified metal that the recycling agent—

(A) knows to be stolen; or

(B) should know or believe, based upon commercial experience and practice, to be stolen.

(b) CIVIL PENALTY.—A person who knowingly violates subsection (a) shall be subject to a civil penalty of not more than $10,000 for each violation.

**SEC. 605. TRANSACTION REQUIREMENTS.**

(a) RECORDING REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a recycling agent shall maintain a written or electronic record of each purchase of specified metal.

(2) EXCEPTION.—Paragraph (1) shall not apply to a recycling agent that is subject to a State or local law that sets forth recording requirements that are substantially similar to the requirements described in paragraph (3) for the purchase of specified metal.

(3) CONTENTS.—A record under paragraph (1) shall include—

(A) the name and address of the recycling agent; and

(B) for each purchase of specified metal—

(i) the date of the transaction;

(ii) a description of the specified metal purchased using widely used and accepted industry terminology;

(iii) the amount paid by the recycling agent;

(iv) the name and address of the person to which the payment was made;

(v) the name of the person delivering the specified metal to the recycling agent, including a distinctive number from a Federal or State government-issued photo identification card and a description of the type of the identification; and

(vi) the license plate number and State-of-issue, make, and model, if available, of the vehicle used to deliver the specified metal to the recycling agent.

(4) REPEAT SELLERS.—A recycling agent may comply with the requirements of this subsection with respect to a purchase of specified metal from a person from which the recycling agent has previously purchased specified metal by—

(A) reference to the existing record relating to the seller; and

(B) recording any information for the transaction that is different from the record relating to the previous purchase from that person.

(5) RECORD RETENTION PERIOD.—A recycling agent shall maintain any record required under this subsection for not less than 2 years after the date of the transaction to which the record relates.

(6) CONFIDENTIALITY.—Any information collected or retained under this section may be disclosed to any Federal, State, or local law enforcement authority or as otherwise directed by a court of law.

(b) PURCHASES IN EXCESS OF $100.—

(1) IN GENERAL.—Except as provided in paragraph (2), a recycling agent may not pay cash for a single purchase of specified metal of more than $100. For purposes of this paragraph, more than 1 purchase in any 48-hour period from the same seller shall be considered to be a single purchase.

(2) EXCEPTION.—Paragraph (1) shall not apply to a recycling agent that is subject to a State or local law that sets forth a maximum amount for cash payments for the purchase of specified metal.

(3) PAYMENT METHOD.—

(A) OCCASIONAL SELLERS.—Except as provided in subparagraph (B), for any purchase of specified metal of more than $100 a recycling agent shall make payment by check that—

(i) is payable to the seller; and

(ii) includes the name and address of the seller.

(B) ESTABLISHED COMMERCIAL TRANSACTIONS.—A recycling agent may make payments for a purchase of specified metal of more than $100 from a governmental or commercial supplier of specified metal with which the recycling agent has an established commercial relationship by electronic funds transfer or other established commercial transaction payment method through a commercial bank if the recycling agent maintains a written record of the payment that identifies the seller, the amount paid, and the date of the purchase.

(c) CIVIL PENALTY.—A person who knowingly violates subsection (a) or (b) shall be subject to a civil penalty of not more than $5,000 for each violation, except that a person who commits a minor violation shall be subject to a penalty of not more than $1,000.

**SEC. 606. ENFORCEMENT BY ATTORNEY GENERAL.**

The Attorney General may bring an enforcement action in an appropriate United States district court against any person that engages in conduct that violates this title.

**SEC. 607. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

(a) IN GENERAL.—An attorney general or equivalent regulator of a State may bring a civil action in the name of the State, as parens patriae on behalf of natural persons residing in the State, in any district court of the United States or other competent court having jurisdiction over the defendant, to secure monetary or equitable relief for a violation of this title.

(b) NOTICE REQUIRED.—Not later than 30 days before the date on which an action under subsection (a) is filed, the attorney general or equivalent regulator of the State involved shall provide to the Attorney General—

(1) written notice of the action; and

(2) a copy of the complaint for the action.

(c) ATTORNEY GENERAL ACTION.—Upon receiving notice under subsection (b), the Attorney General shall have the right—

(1) to intervene in the action;

(2) upon so intervening, to be heard on all matters arising therein;

(3) to remove the action to an appropriate district court of the United States; and

(4) to file petitions for appeal.

(d) PENDING FEDERAL PROCEEDINGS.—If a civil action has been instituted by the Attorney General for a violation of this title, no State may, during the pendency of the action instituted by the Attorney General, institute a civil action under this title against any defendant named in the complaint in the civil action for any violation alleged in the complaint.

(e) CONSTRUCTION.—For purposes of bringing a civil action under subsection (a), nothing in this section regarding notification shall be construed to prevent the attorney general or equivalent regulator of the State from exercising any powers conferred under the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

**SEC. 608. DIRECTIVE TO SENTENCING COMMISSION.**

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission, shall review and, if appropriate, amend the Federal Sentencing Guidelines and policy statements applicable to a person convicted of a criminal violation of section 603 of this title or any other Federal criminal law based on the theft of specified metal by such person.

(b) CONSIDERATIONS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the—

(A) serious nature of the theft of specified metal; and

(B) need for an effective deterrent and appropriate punishment to prevent such theft;

(2) consider the extent to which the guidelines and policy statements appropriately account for—

(A) the potential and actual harm to the public from the offense, including any damage to critical infrastructure;

(B) the amount of loss, or the costs associated with replacement or repair, attributable to the offense;

(C) the level of sophistication and planning involved in the offense; and

(D) whether the offense was intended to or had the effect of creating a threat to public health or safety, injury to another person, or death;

(3) account for any additional aggravating or mitigating circumstances that may justify exceptions to the generally applicable sentencing ranges;

(4) assure reasonable consistency with other relevant directives and with other sentencing guidelines and policy statements; and

(5) assure that the sentencing guidelines and policy statements adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

**SEC. 609. STATE AND LOCAL LAW NOT PREEMPTED.**

Nothing in this title shall be construed to preempt any State or local law regulating the sale or purchase of specified metal, the reporting of such transactions, or any other aspect of the metal recycling industry.

**SEC. 610. EFFECTIVE DATE.**

This title shall take effect 180 days after the date of enactment of this Act.

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**SA 3043.** Mr. BROWN (for himself and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

**SEC. 3___. INCREASING WATER EFFICIENCY IN FEDERAL BUILDINGS.**

(a) DEFINITIONS.—In this section:

(1) ANSI-ACCREDITED PLUMBING CODE.—The term ''ANSI-accredited plumbing code'' means a construction code for a plumbing system of a building that meets applicable codes established by the American National Standards Institute.

(2) ANSI-AUDITED DESIGNATOR.—The term ''ANSI-audited designator'' means an accredited developer that is recognized by the American National Standards Institute.

(3) GREEN PLUMBERS USA TRAINING PROGRAM.—The term ''Green Plumbers USA training program'' means the training and certification program teaching sustainability and water-savings practices that is established by the Green Plumbers organization.

(4) HELMETS TO HARDHATS PROGRAM.—The term ''Helmets to Hardhats program'' means the national, nonprofit program that connects National Guard, Reserve, retired, and transitioning active-duty military service members with skilled training and quality career opportunities in the construction industry.

(5) PLUMBING EFFICIENCY RESEARCH COALITION.—The term ''Plumbing Efficiency Research Coalition'' means the industry coalition comprised of plumbing manufacturers, code developers, plumbing engineers, and water efficiency experts established to advance plumbing research initiatives that support the development of water efficiency and sustainable plumbing products, systems, and practices.

(b) WATER EFFICIENCY STANDARDS.—The Secretary shall work with ANSI-audited designators to promote the implementation and use in the construction of Federal building of plumbing products, systems, and practices that meet standards and codes that achieve the highest level of water efficiency and conservation practicable consistent with construction budgets and the goals of Executive Order 13514 (42 U.S.C. 4321 note; relating to Federal leadership in environmental, energy, and economic performance), including—

(1) the most recent version of the ANSI-accredited plumbing code; and

(2) if no ANSI-accredited plumbing code exists, alternative plumbing standards and codes established by the Secretary.

(c) TRAINING PROGRAMS.—The Secretary shall work with nationally recognized plumbing training programs that meet applicable plumbing licensing requirements to provide competency training for individuals who install and repair plumbing systems in Federal and other buildings, including—

(1) the Helmets to Hardhats training program; and

(2) the Green Plumbers USA training program.

(d) WATER EFFICIENCY RESEARCH.—The Secretary shall promote plumbing research that increases water efficiency and conservation in plumbing products, systems, and practices used in Federal and other buildings and reduces the unintended consequences of reduced flows in the building drains and water supply systems of the United States, which may include working with the Andrew W. Breidenbach Environmental Research Center and the Plumbing Efficiency Research Coalition—

(1) to provide and exchange experts to conduct water efficiency and conservation plumbing-related studies;

(2) to assist in creating public awareness of reports of the Plumbing Efficiency Research Coalition; and

(3) to provide financial assistance if applicable and available.

**SA 3044.** Mr. REID (for Mr. PRYOR (for himself, Mr. COONS, Mr. BEGICH, and Mr. WYDEN)) submitted an amendment intended to be proposed by Mr. REID of Nevada to the bill S. 2262, to promote energy savings in residential buildings and industry, and for other purposes; which was ordered to lie on the table; as follows:

At the beginning of title V, insert the following:

**SEC. 5___. QUADRENNIAL ENERGY REVIEW.**

(a) FINDINGS.—Congress finds that—

(1) the President's Council of Advisors on Science and Technology recommends that the United States develop a Government wide Federal energy policy and update the policy regularly with strategic Quadrennial Energy Reviews similar to the reviews conducted by the Department of Defense;

(2) a Quadrennial Energy Review may—

(A) establish integrated, Government wide national energy objectives in the context of economic, environmental, and security priorities;

(B) recommend coordinated actions across Federal agencies;

(C) identify the resources needed for the invention, adoption, and diffusion of energy technologies; and

(D) provide a strong analytical base for Federal energy policy decisions;

(3) a Quadrennial Energy Review should consider reasonable estimates of future Federal budgetary resources when making recommendations;

(4) the development of an energy policy resulting from a Quadrennial Energy Review would—

(A) enhance the energy security of the United States;

(B) create jobs; and

(C) mitigate environmental harm; and

(5) while a Quadrennial Energy Review will be a product of the executive branch, the review will have substantial input from—

(A) Congress;

(B) the energy industry;

(C) academia;

(D) State, local and tribal governments;

(E) nongovernmental organizations; and

(F) the public.

(b) QUADRENNIAL ENERGY REVIEW.—Section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) is amended to read as follows:

**''SEC. 801. QUADRENNIAL ENERGY REVIEW.**

''(a) DEFINITIONS.—In this section:

''(1) DIRECTOR.—The term 'Director' means the Director of the Office of Science and Technology Policy within the Executive Office of the President.

''(2) FEDERAL LABORATORY.—

''(A) IN GENERAL.—The term 'Federal Laboratory' has the meaning given the term 'laboratory' in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)).

''(B) INCLUSION.—The term 'Federal Laboratory' includes a federally funded research and development center sponsored by a Federal agency.

''(3) QUADRENNIAL ENERGY REVIEW.—The term 'Quadrennial Energy Review' means a comprehensive multiyear review, coordinated across Federal agencies, that—

''(A) describes plans for energy programs and technologies;

''(B) establishes energy objectives across the Federal Government; and

''(C) considers each of the areas described in subsection (d)(2), as appropriate.

''(4) TASK FORCE.—The term 'Task Force' means a Quadrennial Energy Review Task Force established under subsection (b)(1).

''(b) QUADRENNIAL ENERGY REVIEW TASK FORCE.—

''(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Energy Savings and Industrial Competitiveness Act of 2014, and every 4 years thereafter, the President shall establish a Quadrennial Energy Review Task Force to coordinate the Quadrennial Energy Review.

''(2) CO-CHAIRPERSONS.—The appropriate senior Federal Government official designated by the President and the Director shall be co-chairpersons of the Task Force.

''(3) MEMBERSHIP.—The Task Force shall be comprised of representatives at level I or II of the Executive Schedule of—

''(A) the Department of Energy;

''(B) the Department of Commerce;

''(C) the Department of Defense;

''(D) the Department of State;

''(E) the Department of the Interior;

''(F) the Department of Agriculture;

''(G) the Department of the Treasury;

''(H) the Department of Transportation;

''(I) the Office of Management and Budget;

''(J) the National Science Foundation;

''(K) the Environmental Protection Agency; and

''(L) such other Federal organizations, departments, and agencies that the President considers to be appropriate.

''(c) CONDUCT OF REVIEW.—Each Quadrennial Energy Review shall be conducted to provide an integrated view of important national energy objectives and Federal energy policy, including the maximum practicable alignment of research programs, incentives, regulations, and partnerships.

''(d) SUBMISSION OF QUADRENNIAL ENERGY REVIEW TO CONGRESS.—

''(1) IN GENERAL.—Not later than August 1, 2015, and not more than every 4 years thereafter, the President shall publish and submit to Congress a report on the Quadrennial Energy Review.

''(2) INCLUSIONS.—The report described in paragraph (1) should include, as appropriate—

''(A) an integrated view of short-, intermediate-, and long-term objectives for Federal energy policy in the context of economic, environmental, and security priorities;

''(B) executive actions (including programmatic, regulatory, and fiscal actions) and resource requirements—

''(i) to achieve the objectives described in subparagraph (A); and

''(ii) to be coordinated across multiple agencies;

''(C) an analysis of the prospective roles of parties (including academia, industry, consumers, the public, and Federal agencies) in achieving the objectives described in subparagraph (A), including—

''(i) an analysis, by energy use sector, including—

''(I) commercial and residential buildings;

''(II) the industrial sector;

''(III) transportation; and

''(IV) electric power;

''(ii) requirements for invention, adoption, development, and diffusion of energy technologies that are mapped onto each of the energy use sectors; and

''(iii) other research that inform strategies to incentivize desired actions;

''(D) an assessment of policy options to increase domestic energy supplies and energy efficiency;

''(E) an evaluation of energy storage, transmission, and distribution requirements, including requirements for renewable energy;

''(F) an integrated plan for the involvement of the Federal Laboratories in energy programs;

''(G) portfolio assessments that describe the optimal deployment of resources, including prioritizing financial resources for energy programs;

''(H) a mapping of the linkages among basic research and applied programs, demonstration programs, and other innovation mechanisms across the Federal agencies;

''(I) an identification of, and projections for, demonstration projects, including timeframes, milestones, sources of funding, and management;

''(J) an identification of public and private funding needs for various energy technologies, systems, and infrastructure, including consideration of public-private partnerships, loans, and loan guarantees;

''(K) an assessment of global competitors and an identification of programs that can be enhanced with international cooperation;

''(L) an identification of policy gaps that need to be filled to accelerate the adoption and diffusion of energy technologies, including consideration of—

''(i) Federal tax policies; and

''(ii) the role of Federal agencies as early adopters and purchasers of new energy technologies;

''(M) a priority list for implementation of objectives and actions taking into account estimated Federal budgetary resources;

''(N) an analysis of—

''(i) points of maximum leverage for policy intervention to achieve outcomes; and

''(ii) areas of energy policy that can be most effective in meeting national goals for the energy sector; and

''(O) recommendations for executive branch organization changes to facilitate the development and implementation of Federal energy policies.

''(e) INTERIM REPORTS.—The President may prepare and publish interim reports as part of the Quadrennial Energy Review.

''(f) EXECUTIVE SECRETARIAT.—

''(1) IN GENERAL.—The Secretary of Energy shall provide the Quadrennial Energy Review with an Executive Secretariat who shall make available the necessary analytical, financial, and administrative support for the conduct of each Quadrennial Energy Review required under this section.

''(2) COOPERATION.—The heads of applicable Federal agencies shall cooperate with the Secretary and provide such assistance, information, and resources as the Secretary may require to assist in carrying out this section.''.

(c) ADMINISTRATION.—Nothing in this section or an amendment made by this section supersedes, modifies, amends, or repeals any provision of Federal law not expressly superseded, modified, amended, or repealed by this section.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on May 7, 2014, at 9 a.m. in room SR–328A of the Russell Senate Office Building, to conduct a hearing entitled ''2014 Farm Bill: Implementation and Next Steps.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 7, 2014, at 2:30 p.m. in room SR–253 of the Russell Senate Office Building, to conduct a hearing entitled ''Surface Transportation Reauthorization: Progress, Challenges, and Next Steps.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on May 7, 2014, in room SD–628 of the Dirksen Senate Office Building, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ECONOMIC POLICY

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs Subcommittee on Economic Policy be authorized to meet during the session of the Senate on May 7, 2014 at 2:30 p.m., to conduct a hearing entitled ''Drivers of Job Creation.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. COONS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on May 7, 2014, in room SD–562 of the Dirksen Senate Office Building at 2:15 p.m. to conduct a hearing entitled ''The Fight Against Cancer: Challenges, Progress, and Promise.''

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. COONS. Mr. President, I ask unanimous consent that Dr. Sydney Kaufman, a fellow from the American Association for the Advancement of Science, be granted floor privileges for the remainder of the 113th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

## KILAH DAVENPORT CHILD PROTECTION ACT OF 2013

Mr. SCHATZ. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 3627 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3627) to require the Attorney General to report on State law penalties for certain child abusers, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SCHATZ. Mr. President, I ask unanimous consent that the bill be read a third time and passed and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3627) was ordered to a third reading, was read the third time, and passed.

## MEASURES READ THE FIRST TIME—H.R. 2824 AND H.R. 3826

Mr. SCHATZ. Mr. President, I understand that there are two bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will read the bills by title for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 2824) to amend the Surface Mining Control and Reclamation Act of 1977 to stop the ongoing waste by the Department of the Interior of taxpayer resources and implement the final rule on excess spoil, mining waste, and buffers for perennial and intermittent streams, and for other purposes.

A bill (H.R. 3826) to provide direction to the Administrator of the Environmental Protection Agency regarding the establishment of standards for emissions of any greenhouse gas from fossil fuel-fired electric utility generating units, and for other purposes.

Mr. SCHATZ. Mr. President, I now ask for a second reading, and I object to my own request, all en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will be read for the second time on the next legislative day.

## REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 113–4

Mr. SCHATZ. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on May 7, 2014, by the President of the United States: the Protocol Amending the Tax Convention with Spain, treaty document No. 113–4.

I further ask that the treaty be considered as having been read for the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

*To the Senate of the United States:*

I transmit herewith, for the advice and consent of the Senate to its ratification, the Protocol Amending the Convention between the United States of America and the Kingdom of Spain for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and its Protocol, signed at Madrid on February 22, 1990, and a related Memorandum of Understanding signed on

January 14, 2013, at Madrid, together with correcting notes dated July 23, 2013, and January 31, 2014 (together the ''proposed protocol''). I also transmit for the information of the Senate the report of the Department of State, which includes an overview of the proposed protocol.

The proposed protocol was negotiated to bring United States-Spain tax treaty relations into closer conformity with U.S. tax treaty policy. The proposed protocol exempts from source-country withholding cross-border payments of certain direct dividends, interest, royalties, and capital gains, and updates the provisions of the existing convention with respect to preventing abuse by third-country investors and the exchanges of information between revenue authorities. The proposed protocol also updates the mutual agreement procedure by requiring binding arbitration of certain cases that the competent authorities of the United States and Spain have been unable to resolve after a reasonable period of time.

I recommend the Senate give early and favorable consideration to the proposed protocol and give its advice and consent to its ratification.

BARACK OBAMA.
THE WHITE HOUSE, *May 7, 2014*.

## ORDERS FOR THURSDAY, MAY 8, 2014

Mr. SCHATZ. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, May 8, 2014; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the time until 11:15 be equally divided and controlled between the two leaders or their designees; that at 11:15 a.m. the Senate proceed to executive session under the previous order; further, that the cloture vote with respect to S. 2262, the Energy Savings and Industrial Competitiveness Act, occur upon disposition of Executive Calendar No. 4560 on Monday, May 12; finally, that the filing deadline for all first-degree amendments to S. 2262 be 1 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. SCHATZ. Mr. President, tomorrow there will be a series of votes at 11:15 a.m and another series at 1:45 p.m.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SCHATZ. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:40 p.m., adjourned until Thursday, May 8, 2014, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

CHRISTINE R. BERBERICK
MIMI CANNONIER
LISA M. COLE
LISA A. DAVISON
KRISTA L. DIXON
COLLEEN M. FROHLING
LOUIS A. GALLO
CHERRON R. GALLUZZO
ANDREA K. GOODEN
ROSEMARY T. HALEY
MICHELIN Y. JOPLIN
MARIA L. MARCANGELO
BRENDA J. MORGAN
ROBYN D. NELSON
CHRISTOPHER T. PAIGE
KAREN J. RADER
IMELDA M. REEDY
AVEN L. STRAND
THEODORE J. WALKER, JR.
DEEDRA L. ZABOKRTSKY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

KENNETH G. CROOKS
KELVIN G. GARDNER
RANDALL E. KITCHENS
RICHARD P. NOVOTNY
DAVID M. TERRINONI
JAMES D. TIMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

JOHN T. AALBORG, JR.
TERRENCE A. ADAMS
TIMOTHY W. ALBRECHT
CLIFFORD G. ALTIZER
CHRISTOPHER R. AMRHEIN
BRET D. ANDERSON
JAMES G. ANDERSON
MICHAEL P. ANDERSON
THOMAS P. J. ANGELO
RONJON ANNABALLI
BRIAN S. ARMSTRONG
WILLIAM B. ASHWORTH
MATTHEW D. ATKINS
TIMOTHY D. BAILEY
JARVIS R. BAKER
THOMAS E. BARNETT
MARK A. BARRERA
SHANE A. BARRETT
CURTIS R. BASS
BRIAN MARC BAUMANN
MICHAEL J. BEACH
W. B. BEAUMONT
KENYON K. BELL
WILLIAM S. BELL
MATTHEW P. BENIVEGNA
CHRISTOPHER L. BENNETT
EARL R. BENNETT, JR.
SHERI G. BENNINGTON
JOSEPH T. BENSON
JON F. BERRY
MICHAEL D. BIORN
ARNO J. BISCHOFF
DAVID M. BISSONNETTE
HEATHER W. BLACKWELL
JONATHAN N. BLAND
MARK E. BLOMME
JASON J. BOCK
HARLIE J. BODINE
JEREMY S. BOENISCH
BRIAN J. BOHENEK
JUSTIN W. BOLDENOW
PETER M. BONETTI
RANDY L. BOSWELL
WILLIAM D. BOWMAN
SHAWN P. BRADY
BRADLEY E. BRIDGES
STEPHEN R. BROOKS
PATRICK A. BROWN
WILLIAM W. BROWNE III
WILLIAM D. BRYANT
BRIAN D. BURNS
SCOTT A. CAIN
KIM N. CAMPBELL
SEAN J. CANTRELL
LARRY D. CARD II
ERIC A. CARNEY
TRENT R. CARPENTER
DOUGLAS T. CARROLL
JENISE M. CARROLL
BURTON H. CATLEDGE
RHETT D. CHAMPAGNE
JENNIFER V. CHANDLER
ERIC D. CHAPITAL
MICHAEL A. CHARECKY
GEORGE T. CLARK
LANCE D. CLARK
JOHN C. CLAXTON
BRADLEY L. COCHRAN
OMAR S. COLBERT
RICHARD O. COLE
RICHARD T. COONEY, JR.
DENISE L. COOPER
JEFFREY T. COOPER
ROBERT B. COPES
CHRISTOPHER L. CORLEY
HEIDI E. CORNELL
CAVAN K. CRADDOCK
RYAN B. CRAYCRAFT
LUKE C. G. CROPSEY
FRED R. CUNNINGHAM
SCOVILL W. CURRIN
JAMES M. CURRY
JOHN W. DABERKOW
KIMBERLY A. DAMALAS
BRIAN K. DANIELS
LELAND A. DAVIS
MARK J. DAVIS
ROBERT D. DAVIS
CHRISTOPHER J. DEJESUS
JOHN M. DESTAZIO
STAN S. DIAMANTI
BARRY A. DICKEY
SCOTT A. DICKSON
ROBERT A. DIETRICK
GERALD A. DONOHUE
TIMOTHY E. DREIFKE
LYLE K. DREW
SHANNON N. DRISCOLL
DANIEL J. DUFFY
JEFFREY W. DYBALL
DAVID S. EAGLIN
PATRICK S. EBERLE
JASON S. EDELBLUTE
NATHAN J. ELLIOTT
ERIC G. ELLMYER
OSCAR E. ESPINOZA
LARRY A. ESTES
MIKE FAUNDA II
RODNEY L. FAUTH, JR.
ERIC J. FELT
THOMAS D. FICKLIN
WILLIAM D. FISCHER
MICHAEL J. FLATTEN
LARRY A. FLOYD, JR.
WILLIAM A. FOSTER
SETH C. FRANK
STEPHEN P. FRANK
TIMOTHY P. FRANZ
LORINDA A. FREDERICK
ROBERT C. FREDERIKSEN
WILLIAM C. FREEMAN
MATTHEW T. FRITZ
JOHN T. GABRIEL
CHARLES S. GALBREATH
BRIAN D. GALLO
CHARLES M. GAONA
ELVERT L. GARDNER
RUSSELL S. GARNER
LAURA K. GARRETT
JOEL W. GARTNER
THOMAS A. GEISER
TIMOTHY W. GILLASPIE
TIMOTHY TODD ALA GILLESPIE
GREGORY M. GILLINGER
DOUGLAS W. GILPIN
AARON W. GITTNER
GERARD G. GLECKEL, JR.
JOHN M. GONDOL
RICHARD E. GOODMAN II
LASHEECO B. GRAHAM
JENNIFER L. GRANT
MICHAEL R. GREEN
MATT E. GREENE
JAMES S. GRIFFIN
BRENT A. GROMETER
JULIE A. GRUNDAHL
DARREN L. HALL
JONATHAN T. HAMILL
MICHAEL T. HAMMOND
MICHAEL D. HARM
CHRISTOPHER HARRIS
TROY R. HARTING
CHAD JAMES HARTMAN
BRADY P. HAUBOLDT
STEVEN R. HEFFINGTON
PHILLIP L. HENDRIX II
MARK D. HENRY
BRUCE P. HESELTINE, JR.
JUSTIN L. HICKMAN
MATTHEW W. HIGER
BRANDON R. HILEMAN
WILLIAM R. HILL II
JASON T. HINDS
STEPHEN L. HODGE
JUSTIN R. HOFFMAN
KELLY R. HOLBERT
MICHAL D. HOLLIDAY
CRAIG M. HOLLIS
DAVID W. HONCHUL
STEVEN P. HORTON
EDWARD J. HOSPODAR, JR.
JOHN O. HOWARD
CHRISTOPHER R. HUISMAN
BRITT K. HURST
STACY J. HUSER
GREGORY E. HUTSON

JOSEPH H. IMWALLE
GRANT L. IZZI
ROBERT W. JACKSON II
ROBERT A. JAKCSY
DAVID E. JAMES
STEVEN J. JANTZ
CHRISTOPHER E. JENSEN
MATTHEW G. JOGANICH
RICK T. JOHNS
ROY A. JONES III
WISTARIA J. JOSEPH
TERRENCE M. JOYCE
CURTIS G. JUELL
JON T. JULIAN
JAMES R. KEEN
JONATHAN H. KIM
THOMAS C. KIRKHAM
FRED C. KOEGLER III
MARK A. KRABY
BRIAN C. KRAVITZ
JENNIFER JOYCE KRISCHER
AARON A. LADE
STEVEN E. LANG
CHRISTOPHER J. LARSON
JAMES L. LAWRENCE II
DAVID M. LEARNED
DAVID M. LENDERMAN
JASON E. LINDSEY
CHRISTOPHER S. LOHR
STEVEN R. LUCZYNSKI
JOEL J. LUKER
MARK J. LYNCH
ANDREW C. MAAS
MARCHAL B. MAGEE
MICHAEL P. MAHAR
MICHAEL H. MANION
RYAN T. MARSHALL
KEVIN B. MASSIE
MICHAEL N. MATHES
DOUGLAS E. MCCLAIN
LYNN E. MCDONALD
PETER P. MCDONOUGH
HEATHER L. MCGEE
CATHERINE E. MCGOWAN
TIMOTHY M. MCKENZIE
WOODROW A. MEEKS
KERRI T. MELLOR
DAVID C. MERRITT
BRENT J. MESQUIT
KYLE D. MIKOS
RICHARD J. MILLS
CLINTON A. MIXON
JOSEPH P. MOEHLMANN
PAUL D. MOGA
BRIAN R. MOORE
DEWITT MORGAN III
JOSEPH E. MORITZ
COLIN R. MORRIS
ROBERT J. MORSE
ERIC B. MOSES
BRUCE E. MUNGER
SEAN D. MURPHY
JEFFREY A. MYER
ANDRES R. NAZARIO
FRANCINE N. NELSON
MICHAEL G. NELSON
STUART WESTON NEWBERRY
CAMILLE Y. NICHOLS
RYAN B. NICHOLS
GEOFFREY C. NIEBOER
ERIC D. OBERGFELL
CHARLES G. OHLIGER
PAUL M. OLDHAM
JOSHUA M. OLSON
LEE M. OLYNIEC
JOHN T. ORCHARD, JR.
DAVID L. OWENS
SEUNG U. PAIK
THOMAS B. PALENSKE
BRANDON D. PARKER
CHRISTOPHER R. PARRISH
ANDREA M. PAUL
HEIDI A. PAULSON
THOMAS C. PAULY
BRENT A. PEACOCK
BRANDON H. PEARCE
JOHN S. PESAPANE
WILL H. PHILLIPS III
DONNA L. PILSON
PETER M. POLLOCK
PATRICK D. POPE
RAYMOND M. POWELL
TYLER T. PREVETT
MICHELLE L. PRYOR
CRAIG M. RAMSEY
MARK J. REENTS
JENNIFER K. REEVES
JEFFREY D. REIMAN
TRAVIS D. REX
JAMES F. REYNOLDS
LANCE B. REYNOLDS
DERRICK B. RICHARDSON
MICHAEL S. RICHARDSON
SEAN K. RIVERA
CHRISTOPHER J. ROBERTS
GREGORY A. ROBERTS
TROY A. ROBERTS
SCOTT A. ROBINSON
THOMAS R. ROCK, JR.
HENRY T. ROGERS III
JAMES S. ROMASZ
JENNIFFER F. ROMERO
CLINTON A. ROSS
JONATHAN K. ROSSOW
SEAN P. RUCKER
JEFFREY C. RUSSELL
JOEL W. SAFRANEK
RYAN R. SAMUELSON
MICHAEL G. SAWYER
KURT M. SCHENDZIELOS
STEPHEN C. SCHERZER
PATRICK L. SCHLICHENMEYER
JASON R. SCHOTT
RONALD W. SCHWING
DOMINIC A. SETKA
THOMAS P. SEYMOUR
RICHARD C. SHEFFE
DAVID G. SHOEMAKER
EDWARD T. SHOLTIS
LOUISE A. SHUMATE
RODNEY L. SIMPSON
WILLIAM E. SITZABEE
MARK B. SKOUSON
JOSEPH P. SLAVICK
SHANE A. SMITH
MICHAEL G. SNELL
SCOTT E. SOLOMON
REBECCA J. SONKISS
JAMES S. SPARROW
JOSEPH B. SPEED
TODD A. SRIVER
TRAVIS A. STEEN
OWEN D. STEPHENS
CHARLES W. STEVENS
JAY L. STEWART
JON D. STRIZZI
TIMOTHY G. SUMJA
RYAN J. SUTTLEMYRE
JONATHAN D. TAMBLYN
RUSSELL F. TEEHAN
ROBERT C. TESCHNER
ANDREA E. THEMELY
DOUGLAS G. THIES
CHRISTOPHER M. THOMPSON
MICHAEL E. THOMPSON
RANDOLPH B. TORIS
JOHN S. TRUBE
TRENT C. TUTHILL
BRIAN J. TYLER
MATTHEW J. VANPARYS
CURTIS E. VELASQUEZ
CHARLES M. VELINO
FRANK R. VERDUGO
KEVIN M. VIRTS
JAMES K. WAKEFIELD IV
SCOTT T. WALLACE
RICHARD S. WARD
DOUGLAS WAYNE WARNOCK, JR.
RANDALL E. WARRING
JAMES F. WEAVER
TED E. WELCH
ANDREW J. WERNER
CHARLES E. WESTBROOK III
DALE R. WHITE
TODD E. WIEST
DAVID M. WILLCOX
KEVIN S. WILLIAMS
GEORGE S. WILSON
EMMETT L. WINGFIELD III
BRYAN M. WOOD
GREGORY E. WOOD
CHRISTOPHER A. WYCKOFF
ROBERT B. YBARRA
JEFFREY L. YORK
CHARLES P. YOUNG
BRIAN F. ZANE
ANDREW J. ZEIGLER, JR.
MICHAEL A. ZROSTLIK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

KIM L. BOWEN
MICHAEL R. CURTIS
STEVEN T. DABBS
JEFFREY D. GRANGER
JAMES A. HAMEL
DWAYNE A. JONES
DAVID W. KELLEY
BRIAN E. MCCORMACK
ANDREW G. MCINTOSH
MICHAEL S. NEWTON
JAMES L. PARRISH
TIMOTHY S. ROSENTHAL
JOHN W. SHIPMAN
DANIEL W. THOMPSON
JONATHAN H. WADE
DANIEL K. WATERMAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

ROY G. ALLEN III
ISABELLA M. ALVAREZ
MICHELL A. ARCHEBELLE
LILIAN B. AVIGNONE
MELINDA L. BEGLIN
JENNIFER J. BRATZ
JOVINA G. BUSCAGAN
MIEV Y. CARHART
REGIS S. CARR
KEVIN M. COX
DAVID A. DELANG
AARON P. DIMITRAS
REBECCA S. ELLIOTT
LEONTYNE H. FIELDS
STEVEN R. FISHER
GWENDOLYN A. FOSTER
ERIC A. GONZALES
CHRISTOPHER A. GOODENOUGH
ERIC F. GOOSMAN
KATHLEEN MYERS GRIMM
MELIZA HARRIS
ROBERT M. HEIL
LORIE A. HIPPLE
DAVID L. JOHNSON
MISCHA A. JOHNSON
BRIAN D. KITTELSON
LAURA J. LEWIS
CHERYL CORNELL LOCKHART
KATHY E. MARTIN
MA ADELVER QUINITIO MARTIN
ANGELA J. MASAK
MAXINE A. MCINTOSH
KATIE A. MCSHANE
TAMI R. MILLER
GEOFFREY J. MITTELSTEADT
RUTH A. MONSANTO WILLIAMS
JARED A. MORT
LISA G. ODOM
SUSAN M. PARDA WATTERS
TERRY L. PARTHEMORE II
MICHAEL A. POWELL
SCOTT D. POYNTER
KIMBERLY D. REED
KATHRYN P. REESE HUDOCK
KARYN L. REVELLE
JASON N. RICHARD
NANCY L. SALMANS
TRACEY S. SAPP
MICHELLE A. SCHNAKENBERG
SHELLEY A. SHELTON
ANTOINETTE N. SHEPPARD
TANIA R. SIMS
WALTER SINGH
RANDAL A. SNOOTS
AMY L. SWARTHOUT EBARB
STEVE J. SZULBORSKI
DONNA C. TEW
WILLIAM E. THOMS, JR.
MELONY A. VALENCIA
PHUONG K. VANECEK
BETTY A. VENTH
JOHN M. WILLIAMSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

VICTORIA M. AGLEWILSON
SUSAN L. ALBANO
MICHELE G. ALLEN
MARISSA L. AMMERMAN
DANIEL J. BEVINGTON
ANNABELLE C. BIRCH
LORNA A. BLODGETT
PAUL F. BOSEMAN
MATTHEW W. BRACKEN
SCOTT D. BROCIOUS
JEANETTE MARIE BROGAN
MELISSA A. BUZBEE STILES
ELBERTA M. CARTER
JENNIFER CARUSO
LAUREL M. CHIARAMONTE
JONATHAN D. CHIN
ADAM L. CHRISTOPHER
JOANNA D. CLARK
JESSICA L. COLE
SARAH M. COSSETTE
REGINALD L. CRISOSTOMO
PAMELA J. CURRY
JENNIFER R. CURTIS
TONI M. DAVIDSON
KIMBERLY M. DAVIS
ALLAN J. DELGADO
ORLANDO T. DURAN, SR.
DONNA L. EATON
TAMMY R. EDWARDS
ASSUMPTA C. EJIMKONYE
ADRIENNE N. FIELDS
STEVEN C. GAUTREAUX
JODI L. GONYOU
STANLEY W. GRODRIAN
KATHRYN R. HANNAH
JUDY M. HANSON
WILLIAM M. HENNAGE
BARTLEY J. HOLMES
SARAH L. HORSFORD
LINDSAY B. HOWARD
JEANAE M. JACKSON
KRISTEN L. JACOB
CONNIE L. JONES
MICHAEL L. KOOTSTRA
DANYELL Y. LAMBERT
DENISE J. LANE
DARRELL A. LEE, JR.
DILLETTE I. LINDO
MARGARET A. LINTHICUM
LORRAINE K. LITTRELL
CHRISTINE M. LOVE
JEFFERY A. MARSH
AMY C. MAY
LAURA A. MCNICOL
RAFFY C. MENDOZA
BRENDA K. MIAZGA
JENNIFER L. MILAM
SHELLEY J. MORRIS
LUCKY L. MULUMBA
PAULA J. NEEMANN
TERRI R. NEYLON
CARRIE M. OWEN
DARCI A. PARKER
CHRISTIE A. PAULSEN
JULIE L. PETSCHE
ALEACHA C. PHILSON
DESIREE D. POINTER

TAMEKA M. POSTON
CHARLES H. PURVIS
ROBERT P. REEVES, JR.
JOHN J. RICCIARDI
SARAH F. ROBBINS
ASIA L. ROBERSON
MORGAN B. ROBERT
CYNTHIA V. ROMERO
DAISY RUPE
MARIA V. SANCHEZ
BRIAN H. SANTOS
SAUNDRA L. SEMENTILLI
TERESA M. SIVIL
AMY A. SIVILS
AMY E. SMITH
BARBARA L. SMITH
JOSEPH A. SOLGHAN
AMY L. SPOTANSKI
DENISE K. STILTNER
SCOTT R. STRATER
STEPHANIE A. SUBERVI
TONYA A. SWANN
MICHELLE A. TIBBETTS
REGINA S. TOW
DONALD H. TRITZ, JR.
ROBERT L. TROBAUGH
ILEEN R. VERBLE
KEISHA M. VILSAINT
GWENDOLYN E. WALKER
LANETTE K. WALKER
LORRAINE L. WALTERS
MARK ALLEN WARE
KELLIE D. WEBB CASERO
SHANITA W. WEBB
STACEY R. WHITE
TRACEY A. WHITE
LORI C. WICHMAN
CHASITY D. L. WILLIAMS
LAVON R. WILLIAMS
DEBORAH L. WILLIS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be major*

HEATHER A. BODWELL
RAYMOND J. BOYER
SAMUEL H. BRIDGES
RANDY A. CROFT
DENNIS U. DEGUZMAN
RALPH T. ELLIOTT, JR.
JOSEPH G. FISHER
JAMES M. HENDRICK
KEVIN L. HUMPHREY
KYLE A. HUNDLEY
BRADLEY L. KIMBLE
JOEL D. KORNEGAY
DUANE G. MCCRORY
JESUS NAVARRETE
BRANDON N. PARKER
JOSHUA N. PAYNE
ROLAND W. REITZ
KYLE L. ROEHRIG
SARAH D. SCHECHTER
KATHERINE M. SCOTT
TRAVIS N. SEARS
STEVEN L. SURVANCE
ANTHONY R. WADE
CHRISTIAN L. WILLIAMS

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MARIBETH A. AFFELDT
RIVERA H. L. AGOSTO
ANTHONY J. AQUINO
ROBERT E. ARNOLD
ROBERT P. ASHBY
DANIEL J. AUSTIN
VICTOR M. BAKKILA
KEVIN M. BEALL
CHRISTOPHER J. BEAUDOIN
BRYAN G. BELL
ROBERT A. BENJAMIN
MARK J. BENNETT
JAMES J. BENNING II
EDWARD J. BENZ III
RUSSELL E. BERG
WILLIAM E. BERGERON
CARL E. BERTHA
CRAIG A. BISHOP
WALTER E. BLACKWOOD
RICHARD W. BLAKE
DONALD BLUE
DAVID J. BOLTER
RONALD A. BONOMO
TINA B. BOYD
ROBERT A. BOYER
MICHAEL S. BRADY
JOSEPH A. BRECHER
DANA M. BREEN
CAL BROOKINS
MARK D. BROOKS
JOEL L. BRYANT
STEPHEN T. BURCHAM
FLOYD O. BURRIS III
DAVID G. CABRAL
MICHAEL A. CALLAHAN
RICHARD D. CAMPBELL
MIKE W. CARABALLO
STANLEY A. CARIGNAN
WADE S. CARMICHAEL
CURTIS E. A. CARNEY
ANTHONY P. CARROLL
DON CARTER
JAMES R. CASEY
VAMIN S. CHA
KURT W. CHEBATORIS
CHET C. CHILES
ROBERT T. CHINN, JR.
DAVID A. CHOVANCEK
MARK H. CLARK
JEROME T. CLARKE
TIMOTHY M. CLEMENTE
KEVIN P. CMIEL
JENNIFER A. COLLINS
TRACEY M. COLLINS
WILLIAM M. CONNOR
CYNTHIA E. COOK
HENRY B. COOK
MARK W. COPLEN
LAURA CORBETT
CARY J. COWAN, JR.
CRAIG W. COX
JEREMY A. CRIST
THOMAS J. CRONIN
TROY A. DAGOSTINO
JAMES C. DAVIS
RONNIE M. DAVIS
RICHARD DELGADO, JR.
THOMAS E. DICKERHOOF
DANIEL G. DONELIN
JOHN J. DOWLING
LESLEY A. DRAPER
PATRICK D. DUGAN
FRANK G. DUNAWAY
STEVEN R. DURST
DAVID P. ECLIPS
JAMES D. EISENHART
KEVIN D. ELLSON
ALAN M. EVANS
CARL T. EVERY
RICHARD A. FAULKNER, JR.
TIMOTHY J. FENLASON
KENNETH A. FETZER, JR.
JOSEPH P. FINNEGAN
JAMES D. FISHER
BRADLEY J. FOSTER
KENNETH R. FOULKS, JR.
HEIDI B. FOUTY
CHRISTOPHER F. FOXX
VIVIAN E. GAZ
CARMELA D. GIVENS
JOACHIM A. GLOSCHAT, JR.
KIM M. GOFFAR
WILLIAM J. GORMLEY
KRISTINE A. GOULD
RICHARD M. GRAHAM
DAVID L. GREEN
MICHAEL L. GRIESBAUER
JAMES R. GROVES
JEFFREY HALICK
ANTHONY T. HARTMANN
BRYAN S. HAVER
WANDA M. HAWLEY
EDWARD R. HENDERSON
ERNEST C. HERNANDEZ
KERI J. HESTER
THOMAS E. HEYDEN
MICHAEL V. HICKMAN
DANIEL L. HIGGINS
EDWARD J. HLOPAK
RICHARD A. HOUGH II
ROBERT L. HOVEY
STEPHANIE Q. HOWARD
JUAN HOWIE
HARRY B. HUDICK
TIMOTHY P. HUGHES
CRAIG R. JENKINS
BRUCE E. JENNINGS
JACQUELIN JENNINGS
MONA S. JIBRIL
JOHN T. JOHNS
CARTER A. JOHNSON
DOUGLAS C. JOHNSON
BRUCE W. JONES
MATTHEW T. JONES
JAMES R. JOOS
MATTHEW A. JUDSON
STEPHEN D. JULIAN
TERRY R. KEENE
WILLIAM B. KELLY
DAVID J. KEPPEL
DELORES C. KESTLER
VERNER M. KIERNAN
KEVIN KNUUTI
CHRISTOPHER M. KOC
WILLIAM M. KOEHLER
JAMES J. KOKASKA, JR.
KEITH A. KRAJEWSKI
PATTY A. KUBEJA
BENNY LAMANNA
DAVID S. LANGFELLOW
WILLIAM E. LAYNE
JOSEPH M. LESTORTI
TERENCE J. LEWIS
MICHELLE A. LINK
DAVID C. MADISON
MICHAEL A. MAGLIOCCO
MICHAEL C. MAGUIRE
ANA V. MALKOWSKI
MARK R. MALLON
WILLIAM S. MANDRICK
PATRICIA B. MANUEL
VALERIE C. MARKHAM
DARRYL A. MARTIN
VORIS W. MCBURNETTE
BRIAN MCCARTHY
CAREY J. MCCARTHY
CHRISTOPHER V. MCCASKILL
REUBEN L. MCCOY
JOHN J. MCKEE
VICTORIA L. MCKERNAN
BRUCE S. MCLAUGHLIN
STEVEN B. MCLAUGHLIN
SARAH A. MCMULLEN
JUAN MENDEZMERCADO
ALAN D. MEYER
LOGAN B. MITCHELL
MICHAEL H. MITTAG
DAMON G. MONTGOMERY
JOHN C. MOODY, JR.
STEVEN R. MOON
PATRICK W. MOONEY II
CLAYTON L. MORGAN
ROBERT J. MORIARTY
MARK T. MOSES
JAMES J. MURRAY
ELIZABETH T. MURREN
JOHN E. MYUNG
ANDREW G. NAULT
DAVID D. NEWSOME
STEVE A. NICHOLS
JAMES R. NOLIN
CHARLES J. NORRIS
TIMOTHY M. OBRIEN
GREGORY S. OLINGER
JOSEPH OSTROWSKI
FRANK A. PALOMBARO
ANN M. PELLIEN
MARTIN T. PENNOCK
RICHARD PEREZ
JOHN J. PFLAUMER
GLENN W. PHILLIPS
TINA M. PICOLITEOLIS
MICHAEL A. PLATTENBURG
DAVID POLANECZKY
WILLIAM PONCE, JR.
SHAWN A. POOLE
RICHARD L. POTTERTON, JR.
STANLEY R. PRYGA
THOMAS F. RAFTER
JOSEPH A. RICCIARDI
MARK R. RINAMAN
MARIA D. RITTER
MICHAEL D. ROACHE
JAMES E. RUDORFER
DAVID J. RUSSO
ERIC S. RUTHMAN
MICHAEL S. RYDER
ALAN C. SAMUELS
ALPHONSO L. SANDERS
CLIFTON P. SAWYER
WILLIAM M. SAXON
STEVEN R. SAYERS
RICHARD T. SAYRE
JED J. SCHAERTL
MARK A. SCHNABEL
ROSS C. SCOTT
MARK L. SEGOVIA
CHARLES W. SEIFERT
SHEILA K. SEITZ
CONNIE R. SHANK
MICHAEL J. SHARON
STEVEN E. SHATZER
EDWARD L. P. SHEPHERD
TIM O. SHERIDAN
AYLEEN A. SHERRILL
WAYNE D. SIEBERT
CLARKE V. SIMMONS
CINDY C. SMITH
MICHAEL D. SMITH
STEPHEN R. SMITH
TERENCE SMITH
TIMOTHY B. SMITH
WARREN W. SMITH
RICHARD S. SMUDIN
KEVIN S. SNYDER
JON E. SOLEM
RANDY J. SOUTHARD
JOSEPH C. SPENCER
MICHAEL J. STELLA
CATHERINE L. STEPHENS
WESLEY K. STEWART
CURTIS S. STRANGE
ARNOLD V. STRONG
DARRYL L. SUGGS
JOHN F. SULLIVAN
ARCHIE L. SWAIN, SR.
JUSTIN M. SWANSON
GERARDO L. TAMEZ
BRIAN H. TAYLOR
MARGUERITE E. TAYLOR
THOMAS A. THLIVERIS
KELLY F. THRASHER
DIANA TORRES
REGINALD M. TRUSS
GREGORY A. TZUCANOW
MARK K. VAUGHN
JEFFREY A. VOICE
KEITH R. VOLLERT
FRANK M. VONFAHNESTOCK
JASON J. WALLACE
PATRICIA R. WALLACE
CHRISTOPHER G. WALLS
BRIAN F. WALTMAN
ALONZO WANNAMAKER
CRAIG E. WATTS
JOHN A. WEAKLAND
REID W. WEBBER
WILLIAM L. WERNER
FRANK D. WETEGROVE
DOMINIC J. WIBE
THOMAS M. K. WIELAND
DAVID B. WIERSMA
STEPHANIE L. WILLENBROCK

DANIEL E. WILLIAMS
WANDA N. WILLIAMS
WALTER D. WITMER
ROBERT A. WOJCIECHOWSKI, JR.
KATHERINE WOMBLE
DAVID D. WONG
EDWARD A. WOOD
DENNIS M. WRIGHT
BLAISE ZANDOLI
DAVID C. ZILLIC
BRIAN L. ZUCHELKOWSKI
JOHN A. ZULUAGA
R10045

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

MIGUEL AGUILAR
JOHN W. ALTEBAUMER, JR.
LEON B. ALTMAN
BRUCE E. ALZNER
AMY L. ANDERSON
WOODROW L. ARAKAWA
JAIME A. AREIZAGA
CURT E. ASHBY
WILLIAM J. BANWELL
BRUCE L. BARKER
MICHAEL W. BARR
WILLIAM D. BARTON
JAMIE L. BENTON
KAREN A. BERRY
GREGORY J. BETTS
ANDREW A. BEVINGTON
MARK J. BIDWELL
ERIC W. BISHOP
GREGORY A. BLACKWELL
JOHN L. BLAHA
ROGER R. BODENSCHATZ
STEPHEN B. BOESEN II
MARK A. BOETTCHER, JR.
CHARLIE E. BOND II
LUKE J. BOUTOT
CLARENCE BOWSER
CHRISTIAN P. BRADLEY
FELICIA BROKAW
GEORGE V. BROWN, JR.
JAMES L. BROWN
JONATHAN E. BROWN
THOMAS W. BURKE
JEFFREY L. BUTLER
WILLIAM P. CANALEY
WILLIAM J. CARLSON
STEVEN D. CARROLL
JAMES A. CARUSO II
JEFFREY H. CASADA
ROBERT F. CHARLESWORTH
TIMOTHY R. CLARKE
MARK W. CLIFTON
DAMON N. CLUCK
JOHN S. COLEMAN
BARRY L. COLLINS
CHARLES M. COLLINS
JEFFEREY R. CONNELL
BEAU D. COOK
LONNIE D. COOK
KEITH A. COTE
ERIC J. CROKE
BARRY L. CRUM
RANDALL D. CUDWORTH
MARTY P. CURTRIGHT
JAMIE J. DAILEY
ANDREW C. DAVIS
BARRY B. DAVIS
BRIAN P. DAVIS
MARTIN M. DAVIS
JOSEPH B. DAY, JR.
JOSEPH H. DEFEE II
KIMBERELY DEROUENSLAVEN
JONATHAN N. DEVRIES
LAMBERT D. DEVRIES
JEREMY M. DICK
WILLIAM P. DILLON
ROBERT E. DOWNS, JR.
DAVID J. DUBOIS
KERRY P. DULL
NEAL J. EDMONDS
SHAWN R. EDWARDS
JOSEPH M. EINING
ARTHUR M. ELBTHAL
DAVID L. ELLIS
CARL H. FARLEY
JOANNE T. FARRIS
BRUCE S. FEIN
MICHAEL S. FINER
SCOTT A. FONTAINE
MICHAEL B. FORDHAM
MICHAEL G. FORSON
JEFFERY P. FOUNTAIN
THOMAS C. FRILOUX
GABRIEL G. I. FRUMKIN
IVETTE GALARZA
JAY D. GANN
EDWARD P. GARGAS
RICARDO R. GARRATON
GREGORY J. GLENN
ALEXANDER C. GRABIEC
THOMAS P. GRAHAM
LEONARD A. GRATTERI
MILTON L. GRIFFITH, JR.
ALLYN D. GRONEWOLD
KENNETH A. GUSTAVSON
GREGG L. HADLOCK
ERIC J. HANSEN
MARVIN E. HARRIS
THOMAS A. HARROP
DAN T. HASH
CHARLES D. HAUSMAN
JAMES M. HENNIGAN
TIMOTHY P. HERRINGTON
KAARLO J. HIETALA, JR.
SCOTT W. HIIPAKKA
CAROL J. HITCHCOCK
MICHAEL K. HOBLIN
JEFFREY HOLLIDAY
AMIR A. HUSSAIN
JACK A. JAMES
EPIFANIO JIMENEZ
MARVIN D. JOHNSON
JOHN M. JOHNSTON
JEFFREY A. JONES
NORRIS J. KEETON
WILLIAM D. KELLY
ROBERT W. KIMBERLIN
JOHN S. KLINKAM
CHARLES S. KOHLER
MICHAEL A. KRELL
STEVEN J. KREMER
JEFFREY T. KURKA
CHARLES A. LANGLEY
WILLIAM R. LATTA
JOSEPH R. LAWENDOWSKI
ANTHONY S. LEAL
MICHAEL J. LEENEY
HARVEY B. LLOYD III
TODD F. LUNDIN
PHILLIP E. LUNT, JR.
JOANNE E. MACGREGOR
DAVID B. MAJURY
SHARON A. MARTIN
MARIANNE B. MARTINEZ
SCOTT C. MASON
SCOTT A. MATHNA
PAUL J. MCDONALD
JAMES W. MCGLAUGHN
CURTIS E. MCGUIRE
ELIZABETH B. MCLAUGHLIN
JOHN B. MCSHANE, JR.
KEVIN M. MILLER
LAWRENCE MILLER
JAIME A. MIRANDA
WILLIAM P. MITCHELL
ERIC J. MONTEITH
ARLAND D. MOON
CHRISTINA J. MOORE
SHARON D. MOORE
WILLIAM T. MOORE, JR.
JERRY L. MORRISON
JOHN M. MURPHEY
REGINALD G. A. NEAL
RONALD M. NEELY
STEVEN L. NICOLUCCI
JOHN C. NIPP
ROBERT M. NUGENT
ANCEL P. NUNN
DALE E. OLDHAM
MICHAEL J. OSTER
WILLIAM A. OVERBY
PATRICK T. PARDY
GREGORY C. PARKER
JOHN R. PASSET
VINCENT T. PATTERSON
JOSEPH S. PEAL
LARRY M. PEEPLES
JOHN J. PERKINS
CHRISTOPHER M. PFAFF
BRIAN H. PFARR
MARK D. PIKE
LADENNA M. PIPER
ARDIS C. PORTER
EVERETTE A. PRICE
JEFFREY A. PRICE
ROGER T. PUKAHI
RICHARD A. RABE
WILLIAM T. RACHAL
JOSEPH D. REALE
MILLARD G. REEDY IV
STEPHEN L. RHOADES
BRENT L. RICHARDS
EMERSON B. ROBINSON III
SPENCER W. ROBINSON
ANDREW J. ROCHSTEIN
TONYA H. ROGERS
CHRISTOPHER A. ROLLINS
RICHARD G. ROLLINS
TIMOTHY M. ROONEY
KIM T. RUSSELL
RICK RYCZKOWSKI
THOMAS G. RYNDERS
CHAD M. SACKETT
KENNETH SAFE
ARMANDO M. SANTOS
CHARLES M. SCHOENING
CHRISTOPHER D. SCHRIEKS
ERIC A. SCHROEDER
GARY W. SCHUMACHER
MICHAEL P. SEINE
DYLAN F. SEITZ
JON F. SHAFER
AMY L. SHEEHAN
JOHN SILVA
JOSEPH H. SMITH
JASON B. SNOW
STEVEN M. SOLKA
JONATHAN L. STEPHENSON
TODD D. STEVENS
RICHARD M. STEWART
THOMAS M. STEWART
SHANNON W. STONE
WILLIAM F. STROUP II
HIRAM TABLER
CATHERINE M. TAIT
ERIC J. TARBOX
JOHN C. TATE
CHRISTOPHER A. TATIAN
JOHN F. TAYLOR, JR.
JOHNNY L. TEEGARDIN
MARK J. TEEL
ROLAND M. TETREAULT
RODNEY A. THACKER
LLOYD R. THOMAS
MARCUS H. THOMAS
FREDERICK L. TOPLIN
JR TREHARNE
MECHELLE M. TUTTLE
MATTHEW VATTER
ANTHONY D. VERCHIO
DAVID R. VERDI
TIMOTHY D. VINCENT
JAMES WALKER, JR.
MICHAEL F. WASHINGTON
CHARLES L. WEAVER, JR.
JOHN P. WEBER
KIRK R. WHITE
MARGARET C. WHITE
BRENT A. WILKINS
PHILLIP W. WILLIAMS, JR.
PAUL K. WILSON
STEPHEN N. WILSON
BRIAN P. WOLHAUPTER
DAVID A. YAEGERS, JR.
FRANK A. ZENKO
MARK A. ZINSER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

JEFFREY M. ABEL
JEFFREY D. ABRAMOWITZ
STACY M. BABCOCK
AIDA T. BORRAS
DAVE R. BRUETT
GLENNIE E. BURKS
CHARLES J. BUTLER
RICHARD T. CALCHERA
TIMOTHY D. CONNELLY
LESLIE M. DILLARD
CHARLES W. DURR
ERIC FOLKESTAD
JOHN A. FONTANA
ANTHONY A. FRANCIA, JR.
DARIUS S. GALLEGOS
BRUNILDA E. GARCIA
VANESSA M. GATTIS
LEE P. GEARHART
DANIEL B. GEORGE
SUSIE J. GRANGER
BRIAN E. GRIFFIN
BRADLEY A. HESTON
MICHAEL A. HOLLAND
KENNETH G. HOLLEY
KENNETH Z. JENNINGS
GREGORY T. JONES
GLENN A. KIESEWETTER
LAURENCE S. LINTON
BRAD P. LUEBBERT
KEVIN C. LUKE
PAIGE T. MALIN
ROBERT K. MCCASKELL
GEORGE A. MILTON
JAN C. NORRIS
ALAN C. NOTGRASS
GERALD O. OSTLUND
JOHN R. PELCZARSKI
KATHLEEN J. PORTER
ALAN K. SCHREWS
GREGORY SCOTT
PERRY J. SEAWRIGHT
ROBERT B. SENTELL
JAMELLE C. SHAWLEY
KEITH A. THOMPSON
MICHAEL D. THOMPSON
OWEN T. WARD
JENNIFER D. WESLEY
BRADFORD O. WHITNEY
JOHN F. WILLIAMS
DEBORAH A. WILSON

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

BOBBY L. CHRISTINE
JEFFREY C. DICKERSON
MARK W. LACHNIET
JAMES K. MASSENGILL

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

VICTOR SORRENTINO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

JEFFREY P. MARTIN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

RICHARD D. MCCORMICK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

DAVID W. ATWOOD
PAUL R. BURES
JAMES P. CAMPBELL
LEISA M. R. DEUTSCH
JAMI L. HICKEY
PATRICK J. KLOCEK
KEVIN M. LUNNEY
SCOTT C. OLSON
MARY M. RHODES
JACQUELENN M. STUHLDREHER
MICHAEL D. VANMANEN
ANNA H. WOODARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

WILLIAM S. SWITZER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

TODD A. ABRAHAMSON
LEOPOLDO S. J. ALBEA
BRENT A. ALFONZO
BENJAMIN J. ALLBRITTON
ANDREW D. AMIDON
EDWARD T. ANDERSON
ERIC J. ANDUZE
CHRISTOPHER E. ARCHER
MATTHEW L. ARNY
ANTHONY P. BAKER
BOBBY J. BAKER
STEVEN M. BARR
PAUL J. BERNARD
JEFFREY A. BERNHARD
JOSEPH J. BIONDI
JOHN R. BIXBY
MICHAEL F. BLACK
MATTHEW J. BONNER
JOHN D. BOONE
MICHAEL J. BOONE
LESLIE W. BOYER III
JOSEPH P. BOZZELLI
DOUGLAS A. BRADLEY
DAVID A. BRETZ
BRADEN O. BRILLER
CHRISTOPHER J. BUDDE
DWAYNE E. BURBRIDGE
MICHAEL L. BURD
JASON A. BURNS
MATTHEW J. BURNS
CHRISTOPHER BUZIAK
GREGORY D. BYERS
KEVIN P. BYRNE
MARCELLO D. CACERES
JOSEPH CARRIGAN
RYAN T. CARRON
BRYAN M. COCHRAN
PETER M. COLLINS
MICHAEL P. CONNOR
ERIC L. CONZEN
FREDERICK E. CRECELIUS
ADAN G. CRUZ
DONALD S. CUNNINGHAM
NOEL J. DAHLKE
PAUL M. DALE
DEARCY P. DAVIS IV
JEFFREY D. DEBRINE
ANTONIO DEFRIAS, JR.
TOM S. DEJARNETTE
STEPHEN J. DELANTY
CHRISTOPHER R. DEMAY
STEVEN H. DEMOSS
HOMER R. DENIUS III
ELLIOTT J. DONALD
DAVID W. DRY
DWAYNE D. DUCOMMUN
CHRISTIAN A. DUNBAR
JAMES W. EDWARDS, JR.
JAMES J. ELIAS
JENNIFER L. ELLINGER
WILLIAM R. ELLIS, JR.
ERIK J. ESLICH
JOHN H. FERGUSON
ROBERT D. FIGGS
CHRISTOPHER S. FORD
JOHN H. FOX
FERNANDO GARCIA
MICHAEL S. GARRICK
SAM R. GEIGER
TIMOTHY M. GIBBONEY
FREDERIC C. GOLDHAMMER
WILLIAM M. GOTTEN, JR.
TAMARA K. GRAHAM
WAYNE G. GRASDOCK
EDWIN J. GROHE, JR.
DARREN B. GUENTHER
MATTHEW K. HAAG
KEVIN K. HANSON
KEITH A. HASH
WILLIAM A. HEARTHER
JEREMY R. HILL
DAVID HOPPER
JACK E. HOUDESHELL
MONROE M. HOWELL II
STEPHEN J. JACKSON
DAVID C. JAMES
GEOFFREY C. JAMES
BRYAN L. JOHNSON
BRYON K. JOHNSON
IAN L. JOHNSON
VINCENT R. JOHNSON
WILLIAM JOHNSON
MICHAEL S. JOHNSTON
RUSSELL W. JONES
THOMAS C. KAIT, JR.
PHILIP E. KAPUSTA
SEAN D. KEARNS
COREY J. KENISTON
CALEB A. KERR
JACKIE L. KILLMAN
ANDREW J. KIMSEY
JAMES E. KIRBY
ROBERT A. KLASZKY
MATTHEW A. KOSNAR
JON P. R. LABRUZZO
EUGENE D. LACOSTE
JONATHAN B. LAUBACH
STEVEN S. LEE
KEVIN D. LONG
ROBERT E. LOUGHRAN, JR.
ROY LOVE
JAMES P. LOWELL
MICHAEL D. LUCKETT
JONATHAN D. MACDONALD
LLOYD B. MACK
MICHAEL D. MACNICHOLL
RICHARD N. MASSIE
JAY A. MATZKO
SHAUN C. MCANDREW
PATRICK J. MCCORMICK
MARK W. MCCULLOCH
CHRISTOPHER R. MCDOWELL
KEVIN M. MCLAUGHLIN
GREGORY E. MCRAE
KEVIN P. MEYERS
MARC J. MIGUEZ
JAMES E. MILLER
JEFFREY A. MILLER
THOMAS P. MONINGER
KENT W. MOORE
EDGARDO A. MORENO
STEPHEN H. MURRAY
MICHAEL J. NADEAU
CHRISTOPHER A. NASH
STEVEN T. NASSAU
DARREN W. NELSON
GREGORY D. NEWKIRK
BENJAMIN R. NICHOLSON
ERIK R. NILSSON
CASSIDY C. NORMAN
JOSEPH R. OBRIEN
JAMES E. OHARRAH, JR.
MICHAEL A. OLEARY
ADAM D. PALMER
TIMOTHY V. PARKER
JOHN E. PERRONE
BRIAN K. PUMMILL
JOHN K. REILLEY
ANTHONY C. ROACH
MATTHEW P. ROBERTS
JOSE L. RODRIGUEZ
DOUGLAS W. ROSA
ANTHONY E. ROSSI
DAVID M. ROWLAND
MARK A. SCHRAM
SHANTI R. SETHI
JUSTIN M. SHINEMAN
WILLIAM C. SHOEMAKER
TYREL T. SIMPSON
LEE P. SISCO
QUINN D. SKINNER
TIMOTHY J. SLENTZ
GREGORY A. SLEPPY
ROBERT S. SMITH
WILLIAM H. SNYDER III
WILLIAM E. SOLOMON III
MICHAEL T. SPENCER
ERIK A. SPITZER
MARK G. STOCKFISH
JAMES L. STORM
TABB B. STRINGER
JOHN A. SUAZO
TIMOTHY E. SYMONS
SHANE P. TALLANT
BRADLEY B. TERRY
RICHARD A. VACCARO
LARRY P. VARNADORE
JIANCARLO VILLA
CHAD P. VINCELETTE
PHILIP W. WALKER
DAVID P. WALT
ANDREW R. WALTON
KJELL A. WANDER
MICHAEL S. WATHEN
HERSCHEL W. WEINSTOCK
JOHN M. WENKE, JR.
DAVID G. WHITEHEAD
STEVEN R. WILKINSON
ROBERT E. WIRTH
ALAN M. WORTHY
STACEY K. WRIGHT
PETER A. YELLE
DAVID J. YODER
MELVIN K. YOKOYAMA
DAVID A. YOUTT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

TIMOTHY A. BARNEY
WILLIAM D. CARROLL
DANIEL J. COLPO
KATHERINE M. DOLLOFF
DANIEL W. ETTLICH
JAMES W. HARRELL
VINCENT J. JANOWIAK
JON A. JONES
BRIAN D. LAWRENCE
JOHN L. LOWERY
BRIAN A. METCALF
JONATHAN E. RUCKER
MARIA E. SILSDORF
DANA F. SIMON
KEVIN R. SMITH
THOMAS A. TRAPP
ROBERT A. WOLF

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

DOUGLAS S. BELVIN
JAMES P. M. BORGHARDT
MATTHEW B. COMMERFORD
STEVEN F. DESANTIS
SCOTT B. JOSSELYN
MARK P. KEMPF
ARMEN H. KURDIAN
BRANDT A. MOSLENER
RICHARD M. PLAGGE
CHAD B. REED
JASON L. RIDER
WESLEY S. SANDERS
THOMAS M. SANTOMAURO
LAURA A. SCHUESSLER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

JERRY L. ALEXANDER, JR.
SIMONIA R. BLASSINGAME
NICOLE L. DERAMUSSUAZO
LYN Y. HAMMER
SABRA D. KOUNTZ
LEE A. C. NEWTON
LAURIE M. PORTER
SHARON L. RUEST
RENEE J. SQUIER
JASON L. WEBB

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

ROBERT L. CALHOUN, JR.
DAVID J. ROBILLARD
DAVID G. SMITH
THADDEUS O. WALKER III

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

CHRISTOPHER J. COUCH
DUANE L. DECKER
MARK E. NIETO
NATHAN D. SCHNEIDER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

GREGORY S. IRETON
BRETT S. MARTIN
SEAN P. MEMMEN
CYNTHIA V. MORGAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

CHARLES W. BROWN
AMY E. DERRICKFROST
SCOTT E. NORR

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

JEFFREY D. BUSS
WILLIAM M. CARTER
BRIAN ERICKSON
ADAM C. LYONS
ERIK R. MARSHBURN
BRAULIO PAIZ

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

MICHAEL L. BAKER
LEONARDO A. DAY
ROBERT K. FEDERAL III
KWAN LEE
STEVEN A. MORGENFELD
ROBERT F. OGDEN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

NONITO V. BLAS

ROGER J. BROUILLET
WILLIAM R. JOHNSON
SCOTT B. LYONS
GARY D. MARTIN
MARK A. MESKIMEN
JEFFREY M. PAFFORD
DAVID S. WARNER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

ANTHONY T. BUTERA
MARY K. HALLERBERG
MICHAEL J. HANNAN
JOSHUA C. HIMES
MATTHEW F. HOPSON
GRAHAM K. JACKSON
JOHN J. LEWIN
EDWARD J. PADINSKE
TUAN N. PHAM
ADAM D. PORTER
CHRISTOPHER H. SHARMAN
MIRIAM K. SMYTH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be captain*

BRYAN E. BRASWELL
MICHAEL S. COONEY
TODD A. GAGNON
PETER GIANGRASSO
WILLIAM J. KRAMER
BOSWYCK D. OFFORD
VANE A. RHEAD
MICHAEL RIGGINS
JULIA L. SLATTERY
TYRONE L. WARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be captain*

REGINALD T. KING
SHEILA M. MCMAHON
KEVIN L. STECK

# EXTENSIONS OF REMARKS

## COMMEMORATING THE LIFE OF MR. EDWARD H. ZIPPERER

### HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. KINGSTON. Mr. Speaker, I rise today to honor Edward H. Zipperer of Savannah, GA. Mr. Zipperer's ancestors immigrated to Savannah in 1734 from Salzburg, Austria, after the Trustees of the Georgia Colony invited the Zipperers from Salzburg to become part of the colony, which was settled only the year before.

Edward Zipperer was born in Savannah, GA, in the year 1931. He was raised on a farm on U.S. 17 South, adjacent to the Bamboo Farm. He went on to play football at Savannah High School and earn a degree in agricultural engineering from the University of Georgia in 1954.

In 1965, a few friends asked Edward to coach the Richmond Hill High School basketball team, one of only 16 integrated basketball teams in the state. While he had never played much basketball, his biggest concern in taking over was how to feed an integrated team on the road. His solution? He bought a hot dog machine with his own money and enlisted his wife to cook hot dogs for the team. Edward led the team to finish 10th in the state that year.

Edward served in the Georgia State Senate from 1967 to 1975 and was on thirteen separate committees during his tenure. He says his experience in the Georgia State Senate was ''a great education for a little ole country boy.'' Some highlights of his career as a State Senator are the constructions of Skidaway Island State Park, Fort McAllister State Park, and King's Ferry Ogeechee River public recreational area. It is obvious that he was truly committed to conserving and protecting the rich land of south Georgia for future generations.

Edward H. Zipperer has been an outstanding citizen and public servant for the great state of Georgia. Although he has been out of office for some time now, Mr. Zipperer is still very involved in public affairs and is a frequent visitor to my office in Washington, DC. I am proud to call him a close friend of mine and of the city of Savannah.

## TO ACKNOWLEDGE VOLUNTEER FAIRFAX AND THE RECIPIENTS OF THE 2014 SERVICE AWARDS

### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. CONNOLLY. Mr. Speaker, I am honored to rise to commend and express my sincere appreciation to Volunteer Fairfax and the extraordinary honorees of the 22nd Annual Fairfax County Volunteer Service Awards.

Volunteer Fairfax matches the skills and interests of volunteers to the needs of local nonprofit organizations. In a single year, more than 18,500 volunteers contributed a total of 55,683 service hours valued in excess of $1.2 million. This outpouring of generosity enables hundreds of public and private non-profit agencies to meet crucial community needs.

Each year from this group of extraordinary volunteers, Volunteer Fairfax selects a few exceptional individuals to be honored. It is my great pleasure to submit the names of the 2014 Service Award honorees into the CONGRESSIONAL RECORD:

Community Champions: Cheryl McDonald, Braddock District; Margaret Malone, Dranesville District; Amy's Amigos, Hunter Mill District; Bill Shuttleworth, Lee District; Mary Patricia Daniels, Mason District; Louise Cleveland, Mount District; The Oakton Virginia Stake, Providence District; Jim Kirkpatrick, Springfield District; Amrit Daryanani, Sully District; Scott Wheatley, At-Large.

Adult Volunteer 250 Hours & Over: Ahsleigh Soloff.

Adult Volunteer 250 Hours & Under: Patti Schule.

Adult Volunteer Group: Friends of Richard Byrd Library.

Corporate Volunteer Program: BB&T.

Fairfax County Volunteer: John Bauer.

Fairfax County Volunteer Program: Ready to Read.

Family Volunteer: Anna and Kat Hayes.

Lifetime Achievement: Ramona Watson Morrow.

Rising Star: Nicholas Hartigan.

Senior Volunteer: Doris Crawford.

Volunteer Program: Food for Others.

Youth Volunteer: Jonah Basl.

Youth Volunteer Group: National Charity League—Cherry Blossom Chapter.

Integrate Individual: Roberto Quinones.

Integrate Group: St. Stephen's United Methodist Church.

RSVP Northern Virginia: Sharon Page.

In addition, Benchmark Honors will be awarded in four different categories to commend those who have contributed 100, 250, 500, or 1,000 hours of volunteer time to our community.

Mr. Speaker, I ask that my colleagues join me in acknowledging Volunteer Fairfax for its decades of outstanding community service and in thanking the 2014 Service Award honorees for their incredible contributions to our community.

## HONORING GIRL SCOUT GOLD AWARD RECIPIENTS

### HON. BILLY LONG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. LONG. Mr. Speaker, I rise today to congratulate Hannah Luce, Samantha Plouviez, and Meredith Waites on receiving the Girl Scout Gold Award.

The Girl Scout Gold Award is the highest award in Girl Scouting. Being honored with the Girl Scout Gold Award is the culmination of a lot of hard work, dedication, and a commitment to serving others. Through their efforts, Hannah, Samantha, and Meredith have made our communities a better place to live, work, and raise a family.

Girl Scouts today benefit from tangible outcomes such as a strong sense of self, practical life skills, healthy relationships, and feeling empowered to make a difference. In Southwest Missouri, Girl Scouts give back to their community with thousands of hours of community service each year.

Folks in Southwest Missouri should be proud to know that the Girl Scout program remains strong and provides a significant opportunity for girls today to learn and grow. I too am proud and honored to know that young girls like Hannah, Samantha and Meredith in the 7th District of Missouri are demonstrating positive values and strong leadership skills—and will continue to do so for years to come.

I again want to congratulate Hannah Luce, Samantha Plouviez, and Meredith Waites on receiving the Girl Scout Gold Award.

## RECOGNIZING THE ACHIEVEMENTS OF THE DOWNINGTOWN EAST HIGH SCHOOL ACADEMIC TEAM

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. GERLACH. Mr. Speaker, I rise today to congratulate the members of the Downingtown East High School Academic Team of Chester County, Pennsylvania on winning the Pennsylvania state academic competition on Friday, May 2, 2014.

This year marked the first time a Downingtown high school academic team has made it to the state competition since 2003 when the senior high school was split into two schools, Downingtown East and Downingtown West High Schools. Downingtown East advanced to the state competition following a thrilling first place victory in the Chester County Academic Competition. With this state championship win, the Team is now eligible to participate in the National Scholastic Championship held in Washington, D.C. on May 24th and 25th.

The Downingtown East High School Varsity Team includes: Neel Alex, Angela Cai, Varun Giridhar, Vis Lanka, Victoria Pan, Sarah Schieferstein, Neil Vinjamuri, Zack Weber and Nicholas Wu. The Junior Varsity team consists of: Erin Breslin, Nellie Butler, Megan Harley, Kaushik Manchikanti and Matt Roberts. The Teams are ably led by coach Daryl McCauley.

Mr. Speaker, in light of their outstanding accomplishment and commitment to academic excellence, we ask that our colleagues join me today in recognizing the members of the Downingtown East High School Academic Team of Chester County, Pennsylvania.

## 2014 CONGRESSIONAL LAW ENFORCEMENT AWARDS

### HON. VERN BUCHANAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. BUCHANAN. Mr. Speaker, I rise today to pay tribute to law enforcement men and women who have provided distinctive service to the people of Florida's 16th Congressional District.

Law enforcement is a demanding profession that requires sacrifice, courage and a dedication to serve others. Every day, brave men and women put themselves in harm's way to enforce the laws of our society and protect public safety. They deserve our gratitude and respect.

Three years ago, I established the 16th District Congressional Law Enforcement Awards, CLEA, to give special recognition to law enforcement officers, departments, or units for exceptional achievement.

This year, I will present congressional law enforcement awards to the following winners chosen by an independent panel comprised of current and retired law enforcement personnel representing a cross-section of the district's law enforcement community.

Detective Jake Barlow of the Venice Police Department will receive the Dedication and Professionalism Award.

Corporal David Brunner of the Florida Highway Patrol will receive the Career Service Award.

Corporal Edward Kish of Sarasota Manatee Airport Authority Police Department will receive the Preservation of Life Award.

Sergeant Michael Laden of the North Port Police Department will receive the Dedication and Professionalism Award.

Investigator John Morningstar of the Bradenton Police Department will receive the Dedication and Professionalism Award.

Detective Joseph Rogers of the Palmetto Police Department will receive the Dedication and Professionalism Award.

Deputy Joseph Scott of the Manatee County Sheriff's Office will receive the Preservation of Life Award.

Task Force Officer Michael J. Skoumal of the Bradenton Police Department, assigned to U.S. Department of Justice, Drug Enforcement Administration Tampa Office, will receive the Career Service Award.

Sergeant Randy Thompson of the Longboat Key Police Department will receive the Above and Beyond the Call of Duty Award.

Investigator Lynn Thomson of the Sarasota County Sheriff's Office will receive the Dedication and Professionalism Award.

Detective Miguel Torres of the Sarasota County Sheriffs Office will receive the Dedication and Professionalism Award.

Lieutenant Tom Ware of the Florida Fish and Wildlife Conservation Commission will receive the Career Service Award.

## COMMEMORATING THE LIFE OF JUDGE HUEY RONALD HAM

### HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. KINGSTON. Mr. Speaker, I rise today to honor the life of the late Judge Huey Ronald Ham. Judge Ham was a dedicated public servant, a loving husband, and a wonderful father. He devoted his life to serving the greater good of our community. He was a high school teacher for Vocational Agriculture for thirty years at Brantley County High School. He was also the Chief Magistrate Judge from 1984 to 2000.

Judge Ham was born in Lulaton, Georgia, on October 2, 1937. After graduating from Nahunta High School, he attended Abraham Baldwin Agricultural College in Tifton, GA. Following Junior College, he attended the University of Georgia before joining the U.S. Army. After his honorable service to our country, Judge Ham returned to the University of Georgia and earned his degree in Vocational Education in Agriculture.

In additional to his professional success, Judge Ham was also considered a local history expert. He was the driving force behind the Geortner Mumford Library and the Confederate Wall in Waynesville. He helped locate a Confederate Army cemetery where forty soldiers are buried. Judge Ham also served on the 6th Senatorial District for the Democratic Party, the Airport Advisory Board, and a volunteer EMT. He was also appointed by Governor Zell Miller in 1994 to the Coastal Zone Advisory Board.

Judge Huey Ronald Ham passed away on April 7, 2014, at his residence following an extended illness. Judge Ham will be remembered as not only a great family man, but also as an outstanding public servant. I am truly honored to be able to call Judge Huey Ronald Ham a friend. He was a straight shooter who was always looking out for his community. He will be deeply missed by his community, family, and friends.

## IRENE WRIGHT TRIBUTE

### HON. SCOTT R. TIPTON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. TIPTON. Mr. Speaker, I rise today to recognize Ms. Irene Wright from Pueblo, Colorado. After 35 years of service to Pueblo Bank & Trust, Ms. Wright is retiring to spend time with her husband, two sons and three grandsons.

Ms. Wright followed in her mother's footsteps and began working at Pueblo Bank & Trust 35 years ago. Through hard work and dedication, Ms. Wright moved her way up in the organization, starting out on their cleaning crew, moving to the kitchen staff, and becoming a teller in the mid-1980s. Since then, she has been promoted to a supervisor, and has helped the bank open many Colorado branches. For sixty years, someone from the Wright family has been a part of PB&T.

Mr. Speaker, Ms. Wright's hard work and dedication serve as an example to us all. I know I speak for every customer and employee at PB&T when I say we will miss seeing her cheerful face, but I wish her all the best as she moves into a well-deserved retirement.

## IN RECOGNITION OF U.S. DISTRICT OF ARIZONA CHIEF JUDGE JOHN ROLL

### HON. PAUL A. GOSAR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. GOSAR. Mr. Speaker, on April 24, 2014, I was honored to speak at the dedication of the new John M. Roll United States Courthouse in Yuma, Arizona. I joined former Congresswoman Gabrielle Giffords, Senators MCCAIN and FLAKE, Mayor Nicholls of Yuma and others at the ceremony.

I was able to take a tour of this new courthouse and it is remarkable. It is filled with natural light and the carpets look like an aerial view of Yuma County's agricultural fields. It's fitting that this impressive U.S. Courthouse is named after an impressive man, one who dedicated his life to justice and to upholding the rule of law.

U.S. District of Arizona Chief Judge John Roll, who was killed by a gunman at Congresswoman Giffords's event outside Tucson in 2011, served Arizona and our nation honorably for four decades. He was a wise and gracious man, who not only talked the talk but walked the walk. I hope that all those who work in the courthouse in the years to come will honor the legacy of Chief Judge Roll by executing the law with Lady Justice in mind: impartially, fairly and objectively—just as Chief Judge Roll did.

## RECOGNIZING SCORE ORLANDO

### HON. DANIEL WEBSTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. WEBSTER of Florida. Mr. Speaker, I rise today to recognize SCORE Orlando on the occasion of its 50th anniversary. Since 1964, SCORE has helped more than 10 million Americans on their path to entrepreneurship.

SCORE is a nonprofit association dedicated to helping small businesses get off the ground, grow and achieve their goals through education and mentorship. Thanks to dedicated volunteers, the Small Business Administration, and other partners, SCORE Orlando is able to offer its services at little to no cost to their customers.

In 2013 alone, SCORE volunteers donated over one million hours nationwide. These volunteers helped start up more than 38,500 companies, create over 67,300 jobs, increase revenue for 40,000 clients and mentor and train more than 124,600 business owners and entrepreneurs.

I am pleased to recognize SCORE Orlando for its dedication to equipping entrepreneurs with tools for fulfilling and successful careers, and I thank the SCORE Orlando volunteers for continuing to bolster the economy as well as the passions of people who are driven by new ideas, hard work and the desire to succeed.

## TRIBUTE TO ANDREA JANSA

### HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. LATHAM. Mr. Speaker, I rise today to congratulate and recognize Andrea Jansa of the Iowa House Democratic Research Staff for being named a 2014 Forty Under 40 honoree by the award-winning central Iowa publication, Business Record.

Since 2000, Business Record has undertaken an exhaustive annual review to identify a standout group of young leaders in the Greater Des Moines area who are making an impact in their communities and their careers. Each year, forty up-and-coming community and business leaders under 40 years of age are selected for this prestigious distinction, which is based on a combined criteria of community involvement and success in their chosen career field. The 2014 class of Forty Under 40 honorees join an impressive roster of nearly 600 business leaders and growing.

Mr. Speaker, it is a profound honor to represent leaders like Andrea in the United States Congress and it is with great pride that I recognize and applaud Ms. Jansa for utilizing her talents to better both her community and the great state of Iowa. I invite my colleagues in the House to join me in congratulating Andrea on receiving this esteemed designation, thanking those at Business Record for their great work, and wishing each member of the 2014 Forty Under 40 class continued success.

## HONORING WILEY COLLEGE DEBATE TEAM ON NATIONAL CHAMPIONSHIP

### HON. LOUIE GOHMERT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. GOHMERT. Mr. Speaker, it is indeed an honor to recognize an incredible, charming, superlative institution of higher learning located within the First Congressional District of Texas. The historically significant Wiley College was founded in 1873 and is located in Marshall, Texas.

Wiley College first received national acclaim in 1935 when its debate team defeated the then reigning national forensics champion, the University of Southern California. The dramatic face off between these two universities was depicted in the movie ''The Great Debaters'' which helped reinvigorate the debate program at the college and began to erode the racial barrier that once plagued academia.

It is with tremendous pride that I can say ''The Great Debaters'' have done it again by bringing home first place honors in the National Pi Kappa Delta Comprehensive National Tournament which was held in Indianapolis, Indiana. After an outstanding period of 373 successful debates and 60 awards, this victory marks the pinnacle of the team's superb season.

The debate team which once again captured the enthusiasm and commitment of that 1935 team was comprised of only first and second year collegiate competitors: Austin Ashford, Dominick Taylor, Drake Pough, Eric Robinson, Farah Habad, Jhamiah Dixon, LaQuanda Streeter, Rachel Garnett, Autumn Locke, Autumnwind Spear, Mary Mitchell, Kayla Hall, Cameron Smith, Jesus Cardenas, Katori Mobley, Benjamin Turner, Marcus Rembert, Ernest Mack, Ki-Jana Hernandez, Aaron Tumbaga, Robert Hollar, Nathan Leal, and Lyle Kleinman.

The students of the Melvin B. Tolson/Denzel Washington Forensics Society's debate team would not have been able to accomplish this meaningful achievement without the excellent instruction given by Coach Christopher Medina, Director of Forensics; Coach Sarah Spiker Rainey, Assistant Director of Forensics; and Interpretation Coach Sean Allen—along with Forensics Specialists Coach Kris Stroup, Coach Jane Munksgaard, and Coach Todd Rainey.

Special recognition must also be given to the President and CEO of Wiley College, Dr. Haywood Strickland; Executive Vice President and Provost, Dr. Glenda Carter; and Vice President of Student Affairs and Enrollment Services, Dr. Joseph Morale.

Heartfelt congratulations are extended to all faculty, staff, students and alumni of Wiley College as well as the entire east Texas community of Marshall, Texas, as their legacy of distinction is now recorded in the Congressional Record that will endure as long as there is a United States of America.

## RECOGNIZING THE 2013 HONOREES OF THE FAIRFAX COUNTY FEDERATION OF CITIZENS' ASSOCIATIONS

### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. CONNOLLY. Mr. Speaker, I rise to acknowledge the Fairfax County Federation of Citizens' Associations and the honorees of its 64th Annual Awards Banquet. The Fairfax County Federation of Citizens Associations is a coalition of civic and homeowners associations from across Fairfax County. Each year, the Federation honors a few select individuals for their extraordinary contributions to our community. As a former two-term President of the Federation, I understand that those who volunteer their time, energies, and talents to civic activities play a role in making Fairfax County one of the best places in the nation in which to live, work and raise a family. I am honored to recognize the following individuals for their service to the community:

2013 Citizen of the Year: Janyce Hedetniemi. Ms. Hedetniemi's service to Fairfax County has included positions on a wide variety of important boards and commissions. Since January 2013, she has served as a Member At-Large of the Fairfax County Planning Commission. Before that, she served as a Member At-Large of the Fairfax County Park Authority Board. She is a member of the Fairfax County Community Revitalization and Redevelopment Advisory Group. Ms. Hedetniemi was the Braddock District representative to the Fairfax County Transportation Advisory Commission for nine years and chaired the Commission from 2008 to 2010. She was a member of the Tysons Land Use Task Force and Vice-Chair of the Task Force Steering Committee, which helped formulate new comprehensive plan language for Tysons. She chaired two Fairfax County Bond Referendum Committees, has been President of the Oak Hill Citizens Association since 1997, and served as President of the Braddock District Council for two years. Professionally, she is an expert in community relations and enjoyed a distinguished career at the National Institutes of Health.

2013 Citation of Merit: Tena Bluhm. Ms. Bluhm was appointed to the Fairfax County Commission on Aging in 2004 and has chaired the Commission since 2007. Tena has been instrumental in increasing the Commission's presence and influence in Fairfax County through speaking on behalf of older adults and the issues of aging before elected officials of both Fairfax County and the Commonwealth of Virginia. She has educated older adults about services provided by Fairfax County and sought ways to make the county aging-friendly. Ms. Bluhm was elected to her homeowners association's board in 2000 and in 2005 became its president.

She is a member of the Braddock District Council, where she raised attention to aging issues by organizing a seminar about services available to older adults in Fairfax County. Ms. Bluhm worked for 45 years as a Home Care nurse and in 2008 was named Lady Fairfax for the Braddock District. She is now retired and resides with her husband, Ray, in Fairfax.

2013 Citation of Merit: Kathy Kaplan. Kathy Kaplan is an author, publisher, artist, naturalist, and activist who has lived in Reston for 31 years. Her novel, The Dog of Knots, was recognized by the Association of Jewish Libraries and the Anti-Defamation League. Ms. Kaplan has worked as an interpretive naturalist, conducted workshops in art and bookmaking for youth camps and schools, and sculpted a bronze relief for the September 11 Memorial at Freedom Grove at Brown's Chapel in Reston. As co-chair of the Residential, Urban Design, and Livability workgroup for RCA Reston 2020, she wrote the Vision for Herndon Monroe Station area and worked on several alternate park designs for Reston Town Center North. Ms. Kaplan was appointed Chair of the Fairfax County Federation of Citizens Associations' Library Committee in August 2013 to review proposed changes to the county library system and was named 2013 Citizen of the Year by the Reston Citizens Association for her work in library advocacy.

2013 Special Gratitude Award Honorees: U.S. Representative JAMES MORAN, U.S. Representative FRANK WOLF, Virginia Delegate James Scott. The Federation also will honor three Northern Virginia legislators, who are retiring this year after distinguished careers in public service. Representatives MORAN and WOLF have served the residents of our region for more than 30 years, and I have been pleased to partner with them, first as Chairman of the Fairfax Board of Supervisors and then as a Member of Congress, to champion the interests of Northern Virginia and the Commonwealth. Delegate Scott served the residents of our community for more than 40 years, including 14 years representing the Providence District on the Board of Supervisors prior to his service in the General Assembly.

Mr. Speaker, I ask my colleagues to join me in thanking these incredible individuals and in

congratulating them on being honored by the Fairfax County Federation of Citizens' Associations. Civic engagement is the root of a community and Fairfax County residents enjoy an excellent quality of life due in part to the efforts of these individuals. The contributions and leadership of these honorees have been a great benefit to our community and truly merit our highest praise.

## A TRIBUTE TO THE FIRST AFRICAN BAPTIST CHURCH OF PHILADELPHIA

### HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise today to honor the First African Baptist Church of Philadelphia, the oldest African American founded Baptist congregation in Pennsylvania.

The First African Baptist Church of Philadelphia was established in 1809. Since then, it has helped establish many other churches and institutions, including the Downingtown Industrial School. The First African Baptist Church of Philadelphia has also played an integral role in helping to promote equality in Pennsylvania by establishing the first African American savings and loans bank and the first mortgage company for African Americans.

Throughout its rich history, thirteen pastors have held the honor of leading its distinguished congregation. Currently, The Reverend Terrence D. Griffith serves as the church's pastor. At its centennial celebration in 1909, the church welcomed Booker T. Washington as its keynote speaker. In 2009, both Ed Rendell and Arlen Specter joined the church to celebrate its bicentennial anniversary. This year, the church will be celebrating its 205th anniversary, which I am personally attending.

I invite you and all of my colleagues to join me in commemorating The First African Baptist Church of Philadelphia's 205th anniversary. May its success and commitment to helping the City of Philadelphia be an inspiration to all of us in the years to come.

## PERSONAL EXPLANATION

### HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. ADERHOLT. Mr. Speaker, on rollcall No. 194, H.R. 4292—"To amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title." Had I been present, I would have voted "yes."

On rollcall No. 195, H.R. 3584—"To amend the Federal Home Loan Bank Act to authorize privately insured credit unions to become members of a Federal home loan bank, and for other purposes." Had I been present, I would have voted "yes."

On rollcall No. 196, Journal—On Approving the Journal. Had I been present, I would have voted "yes."

## OUR UNCONSCIONABLE NATIONAL DEBT

### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. COFFMAN. Mr. Speaker, on January 20, 2009, the day President Obama took office, the national debt was $10,626,877,048,913.08.

Today, it is $17,473,168,572,574.12. We've added $6,846,291,523,661.04 to our debt in 5 years. This is over $6.8 trillion in debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

## PERSONAL EXPLANATION

### HON. ROBERT PITTENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. PITTENGER. Mr. Speaker, on rollcall vote Nos. 194–196, I am not recorded because I was absent from the House of Representatives. Had I been present, I would have voted in the following manner.

On rollcall No. 194. Had I been present, I would have voted "yea."

On rollcall No. 195. Had I been present, I would have voted "yea."

On rollcall No. 196. Had I been present, I would have voted "no."

## RECOGNIZING THE BROOK HILL LADY GUARD 2014 STATE SOCCER CHAMPIONS

### HON. LOUIE GOHMERT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. GOHMERT. Mr. Speaker, it is with enormous pride that I recognize and congratulate the Brook Hill Lady Guard on a stellar 2013-2014 soccer season in which they once again captured the TAPPS Division III state championship.

The Brook Hill Lady Guard triumphed over the Austin Veritas Lady Defenders with a final score of 1–0, and finished a magnificent season with a perfect 19–0 record.

The defending champion Lady Guard boasted 17 consecutive shutouts, and the entire season only saw them giving up two goals.

The Brook Hill Lady Guard's championship success is a tribute to the coach who brought his team back for another chance at victory, as well as a tribute to the players and all who assisted them along the way.

This recognition of their accomplishment is extended to all of the athletic staff including the outstanding Head Coach David Collins, Assistant Coaches Jordan Roquemore and Neal McGowan, and Trainer Tristan Trevino, all under the outstanding leadership of Athletic Director Wally Dawkins, as well as the stellar school administration headed by Rod Fletcher.

The team members responsible for bringing the second championship title home to east Texas include Hayden Langemeier, Kennedy Rose, Lily Cool, Katherine Stair, Tito Babatunde, Maria Moore, Ari Assad, Elise Hawkins, Danielle Adams, Janet Nwachukwu, Hope Cooper, Kendall Wells, Hayley Dumesnil, Li Ming, Morgan Moss, Penny End, Katie Smith, and Julia Troxell.

The Brook Hill staff and the entire community of Bullard have devoted countless hours to support and encourage these young ladies in the pursuit of their dream.

It is my most esteemed honor to congratulate everyone involved with this endeavor. May God continue to bless these young women, their families and friends, and all those individuals who call Bullard, Texas their home.

Congratulations to the 2014 TAPPS Division III State Soccer Champions, the Brook Hill Lady Guard, as their back to back championship legacy is now recorded in the Congressional Record that will endure as long as there is a United States of America.

## RECOGNIZING 160TH ANNIVERSARY OF THE CITY OF FAIRBURN, GEORGIA

### HON. DAVID SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. DAVID SCOTT of Georgia. Mr. Speaker, I rise today to recognize the 160th anniversary of the City of Fairburn, Georgia, situated within Georgia's Thirteenth District. Since its early beginnings in 1830, Fairburn has continued to grow, evolving into a thriving community of historic homes, businesses, and places of worship. Originally named Cartersville, Fairburn's first charter was issued in 1854 which established the city's jurisdiction as a mere 600-yard radius from the central railroad depot. As time progressed, Fairburn steadily expanded, ultimately achieving "city" status in 1925. Throughout these years of development, the city gradually cultivated a bustling downtown area comprised of railroad infrastructure, public schools, and vibrant businesses which is now recognized in the National Register of Historic Places. With a population of nearly 14,000 residents, Fairburn still maintains the small town atmosphere that has remained a hallmark of the city's charm.

While remembering its past, Fairburn embraces the opportunities and challenges facing its citizens in the 21st century. In recent years, local voters approved a referendum to fund improvements for Duncan Park, downtown areas damaged by fire, infrastructure projects, and a new fire station. Further, Fairburn's Education Campus continues to expand, housing satellite locations of the Georgia Military College and Brenau University. This award-winning four acre campus, now boasting two 18,400 square-foot class room buildings and an 11,400 square-foot administrative building, is the result of a $10 million project funded through the Development Authority of Fairburn. Continuing with the spirit of growth, Fairburn recently received a $3.1 million grant for an innovative transportation project which is slotted to make the historic downtown area more pedestrian friendly. It is the city's hope that with an increased aim on a pedestrian-focused community, citizens will enjoy an improved connectivity between homes, shops, offices, and the campus.

Mr. Speaker, please join me in congratulating the City of Fairburn on this momentous anniversary. Fairburn's storied history coupled with their innovative push to make their community not only a livable, but innovative, is truly something to be admired.

## HONORING THE LIFE AND ACHIEVEMENTS OF CHANDRA DIANE CHAMPION–WALKER

### HON. STEVE COHEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. COHEN. Mr. Speaker, I rise today to honor the life and achievements of life-long Memphian Chandra Diane Champion-Walker, who passed away Wednesday, March 19, 2014. Chandra Champion-Walker was born on December 30, 1959, and was the first-born daughter of Dr. Charles and Carolyn Bailey Champion, the owners of Champion's Pharmacy and Herb Store on Elvis Presley Boulevard in Memphis, Tennessee. She attended Father Bertrand Elementary School and graduated from Memphis Catholic High School in 1977. She furthered her education by attending Memphis State University, Talladega College and Lemoyne-Owen College, where she graduated in 1983 with a Bachelor of Arts Degree in Business Administration.

Following in the footsteps of her family, Chandra became a Certified Pharmacy Technician and joined the family business in delivering pharmaceutical and alternative medicines to the people of Memphis. Her father, Dr. Champion, a renowned herbal pharmacist, referred to her as his ''Rock'' and has received many prestigious awards with her by his side. These include the Bowl of Hygeia Award for outstanding community service by a pharmacist and the 1987 Pharmacist of the Year Award.

Chandra proved to be a woman capable of showing endless love and affection for all people who entered her life. She was a selfless giver and was always willing to help a friend in need. It was said that she always thought about how to take care of and make things better for others—never about how to take advantage of any situation for her own gain. Such compassion for others is rare among people and all who knew her are fortunate to have been able to call her a friend.

Chandra Diane Champion-Walker leaves behind her husband, Jeffrey Lind Walker; her children, Charles Edwin Champion and Jessica Michelle-Lynne Walker; her parents, Carolyn Bailey and Dr. Charles Champion; her adoptive grandmother, Bernice Sullen; two sisters, Dr. Charita ''Ricky'' Champion Brookins and Dr. Carol ''Cookie'' Champion; one niece, Rikki Charee Brookins, and many other loving friends and family throughout Memphis. She was eulogized at Mt. Olive Cathedral C.M.E. Church in Memphis, which she joined as a young child. The city of Memphis has lost a beloved member of the community and the difference she made each and every day will be remembered. I ask all of my colleagues to join me in honoring Mrs. Chandra Diane Champion-Walker. Hers was a life well-lived.

## LYMPHEDEMA AWARENESS WEEK

### HON. DAVID P. ROE

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. ROE of Tennessee. Mr. Speaker, today I hope to raise awareness of lymphedema, a debilitating disease for which no cure has yet been developed.

Lymphedema is a blockage of lymph vessels that causes an accumulation of fluid, protein, and other cellular waste. This results in a swelling of the body in places where the blockage occurs. Though lymphedema can be passed down genetically, it most frequently occurs after surgical procedures to remove damaged lymph nodes or vessels. Often it is a tragic side-effect to cancer treatments, the highest risk occurring in breast and prostate cancer patients.

Doctors can screen for lymphedema using a number of diagnostic tools, and early detection is important to minimize the effects of this disease. Lymphedema, sadly, is not curable, but it is treatable through compression, specially designed exercises, or, in some cases, surgery.

One of my constituents, Jennifer Onks Hovatter of Johnson City, lost her husband Thomas to complications arising from lymphedema in 2007. Every year around June 18th—the day that Thomas passed away—Jennifer holds the Thomas Hovatter Lymphedema Awareness Day in memory of her husband. This year, Lymphedema Awareness Day is June 21.

Jennifer's efforts to raise public recognition of this disease—which have been reported on by the Associated Press—led the Tennessee legislature to declare that the third week of June each year to be ''Lymphedema Awareness Week.''

I applaud Jennifer for her tireless work to bring awareness to lymphedema, and encourage all Americans to learn more about this condition.

## RECOGNIZING THE WORK OF THE LATINO CHILDREN AND FAMILIES COUNCIL

### HON. MARK POCAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. POCAN. Mr. Speaker, I rise today to recognize the tremendous work of the Latino Children and Families Council and their programs for the Latino community in Wisconsin's Second District.

The Latino Children and Families Council hosts El Día de los Niños, an annual event in Madison, Wisconsin for Latino children and their families. This event includes music, food and plenty of games and educational activities for youth to enjoy. Also featured are opportunities for parents to receive information about childcare, parenting and the resources available to them in our community. The day culminates with a parade of Latin American Nations which allows the children to showcase their talents and celebrate their heritage.

Through education and advocacy, the Council continually promotes the success and wellbeing of Latino children and families. The Council promotes strong partnerships between community organizations and works to ensure our schools provide quality education that is inclusive of all students and the unique backgrounds from which they come and the diverse languages that they speak. The Council also provides leadership, giving a strong voice to the concerns of the Latino community.

I am proud to celebrate Saturday, May 3, 2014 as ''El Día de los Niños.'' I thank the Latino Children and Families Council for their efforts to engage with and support the Latino community in Madison. This recognition is a most fitting honor of the important work that they do, not just today but throughout the year.

## IN RECOGNITION OF THE 110TH BIRTHDAY OF EULA MAE BREWER PROPHITT

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. ROGERS of Alabama. Mr. Speaker, I ask for the House's attention today to honor Mrs. Eula Mae Brewer Prophitt on the occasion of her 110th birthday.

Mrs. Prophitt was born in Our Town, Alabama. When she was nine, she went to live with her brother, James William Brewer, and at 11, she began working at Avondale Mills in Alexander City. In fact, Mrs. Eula Mae Prophitt worked in textile mills including Avondale Mills, Mr. Vernon Mills, M. Snower Mill, Pepperell Manufacturing Company, Swift Spinning Mills, and Opelika Manufacturing, until she retired at the age of 66.

Eula Mae married Mr. Willis Guary Prophitt on March 10, 1923. They were blessed with four daughters, Ruby Frances, Mary Elisabeth, Willard Carolyn, and Dorothy Jeanette. Mrs. Prophitt has many grandchildren, great-grandchildren, and great-great-grandchildren.

Mrs. Prophitt served with her husband, a Church of God pastor, teaching young people in Sunday School for 37 years. She continued to independently maintain her home until age ninety, and now lives with her eldest daughter, Ruby. Mrs. Prophitt enjoys a little gardening and her beautiful flowers.

Mr. Speaker, please join me in celebrating Mrs. Prophitt's 110th birthday. She is a blessing to her family and friends, and they plan to celebrate her birthday this Saturday, May 10th.

## HONORING MR. CAO K. O

### HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Ms. VELÁZQUEZ. Mr. Speaker, I rise to recognize an important pillar in New York's Asian American community, an advocate for equality and progress, and a steadfast champion for justice, Mr. Cao K. O.

Mr. O was a founding member of the Asian American Federation (AAF) and served as its first executive director until late last year. Over more than 23 years, Mr. O built the Federation

into a leading pan-Asian organization. Under his leadership, the organization has become renowned in a range of areas that advance the Asian American community.

Under Mr. O's direction the organization has been a leader in policy research, examining the root causes of issues afflicting the community and helping develop commonsense solutions that better the lives of thousands of New Yorkers. The Federation has produced numerous studies examining the economic and mental health effects of 9/11 on New York's Asian American community, how to best care for the Asian community's elderly and children, and how to address poverty among this demographic group.

Beyond shaping the policy dialogue, Mr. O's emphasis on nonprofit capacity building and philanthropy has also led the AAF to steer resources to a range of community based organizations that tackle real world problems facing New York's Asian Americans. The Federation has raised and leveraged $10 million and made grants to organizations benefitting children, women, elders and recent immigrants, improving the lives of thousands of New Yorkers.

Mr. Speaker, Mr. O himself is an immigrant. Born and raised in Vietnam, he arrived a refugee in this country in 1975. It is clear that he has never forgotten his personal struggles but has instead used them as inspiration to help those around him. This Friday, the Asian American Federation will honor Mr. O for his many contributions. In advance of this celebration, I would ask my colleagues to join me in saluting this public servant for his many accomplishments on behalf of the Asian American community.

## HONORING THE CONTRIBUTIONS OF THE ''MEMPHIS 13''

### HON. STEVE COHEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. COHEN. Mr. Speaker, I rise today to honor 13 individuals who broke the barrier of segregation in the Memphis City Schools on October 3, 1961. Formally known as the ''Memphis 13,'' these trailblazers of integration were the first African-American students to be enrolled in the all-white Memphis City Schools system at a time when institutional desegregation was widely criticized. The challenges and accomplishments of these courageous Memphians have been recognized across the country thanks to the work of University of Memphis Law Professor Daniel Kiel in his 2011 documentary, ''The Memphis 13.''

Almost 53 years ago, 13 first-grade students bravely entered the doors of Bruce, Gordon, Rozelle and Springdale Elementary Schools. These students, Sheila Malone Conway, E.C. Freeman Fentress, Alvin Freeman, Deborah Holt, Dwania Kyles, Sharon Malone, Pamela Mayes, Jacqueline Moore, Joyce Bell White, Leandrew Wiggins, Clarence Williams, Harry Williams and Michael Willis (Menelik Fombi), were some of America's bravest civil rights' activists, even at such young ages. At a time when the nation was witnessing widespread segregation and animosity towards African-Americans who desired equal opportunities, these young civil rights leaders and their families made a choice to take a step towards equality for all.

Before the momentous actions of the ''Memphis 13,'' Memphis City Schools had never before afforded African-American students the opportunity to receive a fair and full education. This pioneering instance of school integration went forth with little public discussion or advanced news attention. Because of the heartfelt work of Professor Daniel Kiel and his documentary, the stories of these children, who dared to receive an equal education in a desegregated school system, are now being heard by communities throughout the country.

As a strong believer in the importance of education, I cannot thank enough the ''Memphis 13'' for blazing the trail for other African-American students to receive the education they deserve and Daniel Kiel for telling their story. The selfless actions by the ''Memphis 13'' paved a way for students to receive an equal education in Memphis and across the nation. The difference that these legends made will always be remembered and celebrated by the city of Memphis. I ask all of my colleagues to join me in honoring the ''Memphis 13.''

## HONOR OUR PUBLIC SERVANTS THIS WEEK

### HON. ROBERT J. WITTMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. WITTMAN. Mr. Speaker, today I rise to recognize our Nation's public servants and to thank them for their important contributions to our country.

In every community across America, federal employees work to make sure the government is effective and keep us safe; their daily contributions to their fellow citizens and to the cause of freedom are simply innumerable. And in America's First District, there are many hardworking and dedicated patriots who serve the people of this nation every day.

As we celebrate Public Service Recognition Week, which started on Sunday, May 4, and ends on Saturday, May 10, I want to express my utmost gratitude to the country's federal employees as well as our dedicated state, county and local public servants for their tireless service. I am proud to represent the tens of thousands of federal employees and retirees who live in the First District of Virginia.

Congress charges these individuals with important duties and expects these duties to be performed with the highest caliber of expertise—but rather than being recognized for their service, these public servants see their salary and benefits continually used as a pawn in the game of politics. I have opposed these efforts because I believe that as Congress continues to ask our federal civilian workforce to do more with less, we should instead be standing with them in recognition of their service.

From the CIA agents on the front lines of the War on Terror to the FBI agents finding suspected terrorists—our Nation's public servants perform critical national security jobs that make our country a safer place. As the House votes to establish a new Select Committee on Benghazi, it is important to note that the Foreign Service officers representing our government at the U.S. consulate and annex where the September 11, 2012, attack occurred were federal employees.

In addition to serving abroad, our Nation's federal employees frequently risk their lives to protect us here at home as well. The Customs and Border Patrol and DEA agents working to fight illegal immigration, human trafficking and drug running operations are federal employees.

These men and women often get little to no recognition for their work, but day in and day out are repeatedly put in harm's way.

We must also recognize the public servants who are not directly in dangerous situations, but on a daily basis perform duties imperative to our safety. Defense civilian riggers, machinists, refuelers and engineers who repair sophisticated weaponry systems at our Army depots, Air Force bases and shipyards are the federal employees who support our military personnel.

The scientists at Department of Energy laboratories, NASA astronauts, engineers and researchers all work to keep America competitive in the ever increasingly global economy. Meteorologists at the weather service track life-threatening storms, such as hurricanes, tornadoes, tsunamis and blizzards so that we can prepare to the best of our ability for inclement weather and natural disasters.

The nurses and doctors at the VA who mind for our veterans and wounded warriors, researchers at NIH working to find a cure for cancer, diabetes and Alzheimer's—all are federal employees. The FDA public health inspectors who track E. coli and salmonella outbreaks to make certain that our food is safe to eat are federal employees.

Air traffic controllers at FAA work to have safe skies for travelers. Federal firefighters protect homes and businesses during a national forest fire. National Park Service rangers facilitate safe hiking on historic grounds and camping in our parks and tours of our battlefields.

These are only but a few of the vital services federal employees provide to our Congressional Districts and the Nation alike. The federal workforce is full of dedicated and committed citizens who exemplify patriotism in everything they do and I hope my colleagues will join me in honoring them for their service to ensure the security of our Nation.

## RECOGNIZING THE 2013 RESTON ASSOCIATION VOLUNTEER SERVICE AWARDS

### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. CONNOLLY. Mr. Speaker, I rise today to recognize the recipients of the 2013 Reston Association Volunteer Service Awards. The Reston Association (RA) is the largest homeowners' association in Virginia and one of the largest in the country with more than 21,000 homes under its jurisdiction. Among other roles, RA serves as the steward of Reston's architectural aesthetics, recreational amenities, and environmental resources.

RA relies on hundreds of volunteers who serve on boards, committees, and projects to carry out its mission to keep Reston a model community where all can ''Live, Work, Play,

and Get Involved.'' I am pleased to enter into the CONGRESSIONAL RECORD the names of the outstanding volunteers for 2013.

Volunteer of the Year: Diane Blust. Ms. Blust has been a Reston resident for 36 years and has made a long-standing commitment to protecting Reston's natural resources. She has chaired RA's Environmental Advisory Committee and RA's Sustainability Working Group. She serves as the President of Sustainable Reston, which is part of the Fairfax Coalition for Smarter Growth and was instrumental in developing a program to install garden plots near low-income housing. As a member of Reston Environmental Action (REACT), Ms. Blust works to promote energy efficiency and habits that lessen our environmental impact. She helped establish the Environmental Film series at Walker Nature Center and started the Smart Market, which is a seasonal, weekly farmers market. In addition Ms. Blust teaches various Home Food Preservation classes for Reston Community Center (RCC) and RA's Walker Nature Center.

Volunteer Group of the Year Garden Plot Coordinators—Karen Parnicky, Lake Anne; Richard Padgett, Golf Course Island; and Molly O'Boyle, Hunters Woods I & II. RA rents more than 270 garden plots each year in four locations. The garden plot coordinators serve as liaisons between the garden plot renters and Reston Association staff. This group also contributes by weeding and watering or coordinating volunteers to do so when a gardener may be on vacation or away due to a medical condition.

Community Partner of the Year: The Boofie O'Gorman Team. The Boofie O'Gorman Team donated $5,000 and more than 100 volunteer hours to the 2013 Reston Kids Triathlon. This generous donation provides funding for our scholarship participants and other Reston Association fee-waived programs. Their monetary contributions and personal efforts in raceday support, show their dedication to the youngest members of the Reston community. The team also supports scholarships for the Reston Triathlon, the Reston Sprint Triathlon, the Runners Marathon, the Reston Relay Triathlon, and RA Camps.

Mr. Speaker, I ask my colleagues to join me in congratulating the recipients of the 2013 Reston Association Volunteer Service Awards and in thanking them for dedicating their time, energy, and resources to the improvement of the quality of life and health of the Reston community.

## RECOGNIZING MISS ISABELLA HIXENBAUGH

### HON. TOM RICE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. RICE of South Carolina. Mr. Speaker, I rise today to recognize a young lady in my district, Miss Isabella Hixenbaugh of Myrtle Beach, South Carolina.

Isabella is an eighth-grader at Forestbrook Middle School and was officially recognized in Washington, DC, this week as one of South Carolina's top two youth volunteers.

Isabella selflessly devotes her free time to helping others in need by volunteering at a therapeutic riding foundation, Fidelis Foundation. There she assists in the emotional healing of abused, neglected, and traumatized children by teaching them how to ride horses and care for the animals.

Isabella has been volunteering at Fidelis Foundation since its founding in 2010, and enjoys helping others find comfort in one of her favorite pastimes. When not teaching children how to ride or leading an arts and Crafts project at the barn, Isabella participates in horse shows to raise money for the Fidelis Foundation.

Mr. Speaker, young people, like Isabella, inspire and encourage so many. It is important that we recognize their leadership and service in our communities.

On behalf of South Carolina's Seventh District, congratulations Isabella and thank you for your volunteer service.

## RECOGNIZING SGT. ROB JONES AND THE COALITION TO SALUTE AMERICA'S HEROES

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. WOLF. Mr. Speaker, I rise today in honor of a great American, Sgt. Rob Jones, who not only served our nation honorably in Iraq and Afghanistan, but continues to serve his fellow veterans here at home.

Sgt. Jones grew up in the 10th District—in Lovettsville, Virginia and graduated from Loudoun Valley High School. After serving in the U.S. Marine Corps—where he was injured by an IED in 2010—he recovered and joined the U.S. National Rowing team, winning a bronze medal 2012 Paralympics.

Last October, Sgt. Jones began a long and difficult cycling journey across the country. His purpose was to shine a light on the struggles that young veterans face when they return home and to thank the military charities that have provided him with hope through his recovery. Specifically, Sgt. Jones has recognized three organizations that helped him through his recovery: Semper Fi Fund, Ride2Recovery and the Coalition to Salute America's Heroes.

The Coalition to Salute America's Heroes, which is headquartered in my district, is a 501(c)(3), nonprofit, non-partisan organization established in 2004 to provide severely wounded veterans of the wars in Iraq and Afghanistan with emergency financial assistance and other support services. The Coalition has done tremendous work in Virginia and across the country. Besides donating nearly $1 million in direct aid to veterans, the Coalition has provided thousands of dollars through grants to other notable veterans' organizations in Virginia. Under the leadership of David Walker, who serves as President and CEO, the Coalition has increased its efforts.

Most recently, the Coalition hosted a meaningful tribute to veterans at the new Salamander Resort & Spa in Middleburg, Virginia, where they were joined by the Boulder Crest Retreat for Military and Veteran Wellness, another organization in my district that is also doing tremendous work.

I look forward to seeing the Coalition to Salute America's Heroes continue to make a difference in so many lives. I also want to thank Sgt. Jones, for his inspirational journey and for his invaluable contribution to his fellow veterans. He proves that anything is possible and I wish him continued success in all his future endeavors.

## HONORING MEL HANCOCK

### HON. BILLY LONG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. LONG. Mr. Speaker, I rise today to recognize the late Congressman Mel Hancock as he is inducted into the Hall of Famous Missourians.

Mel was a dear friend, neighbor, and dedicated statesmen during his years of public service in the United States House of Representatives. His legacy will forever be a part of Missouri through the Hancock Amendment and his service to the people he represented.

Mel spent his time in public life advocating for the proper scope and role of government as an instrument to protect our individual liberties. He understood that government is a useful tool, but when it is given too much power it can be used to undermine the interests and freedom of the average person. Like our founders, Mel was a wise, just, and honorable man who worked tirelessly to advance the cause of liberty for which so many of our ancestors have sacrificed so much to promote.

In 1977 Mel founded the Taxpayer Survival Association, a not-for-profit organization dedicated to advancing a constitutional amendment to limit taxes. He invested his personal effort, travelling across Missouri collecting signatures to put a ''Tax and Spending Amendment'' on the ballot. Through his hard work, the ''Hancock Amendment'' was added to the Missouri Constitution in 1980. Since then, Mel's leadership to secure the Hancock Amendment for Missouri has served as an inspiration for other legislative efforts around the nation.

After the passage of the Hancock Amendment, Mel continued his service to his state and his neighbors after being elected to represent Missouri's 7th District in Congress in 1988. During his time in Congress he served on the House Ways and Means Committee and advocated a balanced budget amendment for the federal constitution. Mel was a voice of prudence and reason in an unreasonable era.

He left Congress in 1996 to return to his home in Southwest Missouri, as was befitting a true citizen representative. Mel's towering stature had earned the deep gratitude of the people he served and would have ensured his continued re-election.

However, Mel believed that terms in office should be limited and had given his promise to the people that he would not serve more than four terms in office. With Mel Hancock, a promise made was a promise kept, something that Washington would do well to learn from today:

Only occasionally in life are we privileged to know someone as worthy of honor and emulation as Mel Hancock. Mel's well deserved induction in the Hall of the Famous Missourians is testament to a man who was a remarkable member of the House of Representatives and a true friend. May he forever live in the hearts of those whose lives he touched.

## RECOGNIZING THE BURKE VOLUNTEER FIRE AND RESCUE DEPARTMENT'S 66TH ANNUAL INSTALLATION OF OFFICERS BANQUET

### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. CONNOLLY. Mr. Speaker, I rise to join the Burke Volunteer Fire and Rescue Department, which is hosting its 66th Annual Installation of Officers Banquet, and in thanking its volunteers for filling an essential role in keeping the community safe.

The Burke Volunteer Fire and Rescue Department was founded in January 1948, and for more than 6 decades it has provided lifesaving fire suppression/prevention and emergency medical/rescue services to the residents of Burke, Fairfax County, and the surrounding communities. It also provides, houses, and maintains firefighting and emergency medical equipment; provides opportunities for professional growth and development for the membership; and maintains and fosters a strong viable organization.

As one of the County's most active volunteer fire and rescue departments, the Burke Volunteer Fire and Rescue Department works in cooperation with the Fairfax County Fire and Rescue Department to serve the community. Last year alone, the Burke station responded to thousands of incidents.

I am honored to recognize several of the dedicated men and women of the Burke Volunteer Fire Department who have volunteered for extra duty as officers or as members of the board of directors or who are receiving awards for their superlative service to the department and the community. It gives me great pleasure to introduce the names of these individuals into the CONGRESSIONAL RECORD:

2014 Award Recipients:

Founder's Award—Kevin Grottle.

Rookie of the Year—Chris Smith.

Firefighter of the Year—Paul Stracke.

EMS Provider of the Year—Emily Fincher.

Officer of the Year—Mike Powell.

Administrative Person of the Year—Nancy Stone.

Career Member of the Year—Mike Istvan.

Chief's Award—BVFRD Maintenance Team: Larry Bocknek, Kevin Grottle, Shaun Kurry, and Alex Budd.

Board of Directors:

President Patrick Owens.

Vice President John Powers.

Secretary Greg Fedor.

Treasurer Sheryl Gilhooly.

Larry Barnett.

Rich Guarrasi.

Alisha Sunde.

Officers:

Chief Thomas Warnock.

Deputy Chief Tina Godfrey.

Deputy Chief John Hudak.

Captain Melissa Ashby.

Captain Keith O'Connor.

Lieutenant John Rose.

Sergeant Jennifer Babic.

Sergeant Kevin Grottle.

Sergeant Mike Hertig.

Sergeant Mike Powell.

Team Leader FF Paul Stracke.

Team Leader Paramedic Dave Horne.

Team Leader Catherine Owens.

Chaplain Harry Chelpon.

I also wish to recognize Assistant Chief and Lifetime Member Lawrence A. Bocknek on the occasion of his retirement following 29 years of service with the Burke Volunteer Fire and Rescue Department and 40 total years in the fire service.

Mr. Speaker, I ask that my colleagues join me in congratulating the department for 66 years of service and in thanking all of the brave volunteers who do not hesitate to drop everything when the community calls in need of help. To all of these men and women who put themselves in harm's way to protect our residents I say: "Stay safe."

## HONORING THE 50TH ANNIVERSARY OF THE GEORGIA SOCIETY OF HOSPITAL ENGINEERS

### HON. AUSTIN SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. AUSTIN SCOTT of Georgia. Mr. Speaker, I am honored today to recognize the 50th anniversary of the Georgia Society for Hospital Engineers (GSHE). It is appropriate at this milestone to reflect on and celebrate the importance and achievements of this organization.

On October 1, 1964, the Georgia Hospital Association (GHA) launched the GSHE at a meeting in Macon, GA. The GSHE owes much of its success to the strong foundation laid by the original charter members: Billy Wise, Dewey Moon, Wendell White, Jerry Adams, Darryl Goodwin, Mahlon Hill, and the first GSHE president, Mr. P.J. Wise. These men showed extraordinary foresight and wisdom as they established a forum for hospital engineers, supervisors, maintenance managers, and other hospital and medical center personnel from across the state to meet and share ideas on improving patient care.

Throughout the years, the GSHE has offered a number of programs to increase efficiency and efficacy in hospitals. The earliest programs included "helping hand" and "special tools" which allowed hospital engineers to offer assistance and resources to one another. As innovative technology plays an increasingly major role in health care, the GSHE continues to help hospitals keep up with new technologies and provide exceptional care for citizens across Georgia.

With Mr. William A. Elrod at the helm serving as the 50th president of the GSHE, the organization maintains the same objective of the original charter members, to unite hospital engineers so that they might collaborate and learn from one another. Mr. Speaker, please join me on behalf of the great people of Georgia in wishing the GSHE many more years of continued success in transforming the delivery of healthcare.

## HONORING SUE MAGNER

### HON. PETER J. ROSKAM

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. ROSKAM. Mr. Speaker, I rise today to recognize Sue Magner, an outstanding volunteer of AARP from Illinois. Recently, Sue was named the first ever winner of the AARP Director's Award for Distinguished Service. This award is given to an outstanding volunteer who consistently exceeds what is asked of them and provides exceptional service to the community.

Sue Magner preforms many different activities as an AARP driver safety volunteer. She is an instructor, trainer, and VMIS data manager.

During her time at AARP, Sue has jumped at the challenge of familiarizing new volunteers with computer systems knowledge and computer-based technology and is always looking for new methods on how best to teach incoming volunteers and optimize their experience.

Sue's colleagues report that she is eager to answer any coworker's questions and does everything she is asked with a smile. Her kindness and ability to her help others is truly commendable. Through hard work and tireless dedication, Sue Magner has helped make a difference in countless lives.

Mr. Speaker, and my distinguished colleagues of the House, please join me in congratulating Sue Magner on receiving this distinct honor and wishing her many future successes as she continues her work with AARP.

## IN MEMORY OF CHIEF ROBERT KNIGHT OF THE SAYVILLE FIRE DEPARTMENT

### HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. KING of New York. Mr. Speaker, today I rise on behalf of the Long Island delegation to offer our heartfelt condolences to the family, friends and loved ones of Robert "Bobby" Knight, former Chief of the Sayville Fire Department of Suffolk County, New York. Congressmen BISHOP, ISRAEL, MCCARTHY and I had the sincere pleasure Of working with Chief Knight on important fire services issues that directly impacted the safety and wellbeing of our constituents. His tireless service to the firefighter community has been invaluable, and his counsel was always sought by lawmakers. He honorably served with the Sayville Department for 35 years. He was also a former member of the East Hampton Fire Department, 1975–1979, and the North Patchogue Fire Department, 1968–1969.

Bobby was loved by everyone who knew him. His selfless commitment to the safety and security of our state was evident in his work as the Legislative Committee Chairman for the Firemen's Association of the State of New York. He passed in the Line of Duty doing what he loved—advocating for the needs of our first responders. I know myself and many of my delegation colleagues met with him just hours before his unexpected passing. He didn't feel well, but he was more concerned with carrying the message of the Long Island firefighters than he was for his own well being. We have lost a true advocate and friend.

## HONORING COACH ED STEERS

### HON. MARK SANFORD

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. SANFORD. Mr. Speaker, I rise today to acknowledge the outstanding career and accomplishments of Coach Ed Steers. At the conclusion of this school year, Coach Steers will be retiring as Athletics Director of Porter-Gaud School after nine great years. Under his leadership, Porter-Gaud has consistently had one of the most successful and well-rounded athletics programs in the South Carolina Independent School Association (SCISA), winning twenty-six state titles, as well as the SCISA President's Cup for three of the past four years.

As much as Coach Steers has done for the Cyclones, many do not know the details about Ed's career prior to his arrival at Porter-Gaud. As a student-athlete at the Citadel (Class of 1968), Coach Steers was a three-time Southern Conference champion in wrestling, never losing in a dual meet. He entered the coaching profession following a brief stint as a tank officer in the Vietnam era, coaching for the Army, then as head coach at William and Mary and later at the U.S. Military Academy at West Point. He is still the winningest wrestling coach in the history of both programs, and has been named to the Citadel's Athletics Hall of Fame, the National Wrestling Hall of Fame, and the New York Collegiate Wrestling Hall of Fame. He also was named the Citadel's Alumnus of the Year in 2002.

More important than all of these accolades has been Coach Steers' influence on the coaches, athletes, and the entire Porter-Gaud community. Ed models a lifestyle of personal fitness and discipline by squeezing in a run every day. He knows the name and the story of every single athlete and coach—and chokes up in telling the best ones every season at the athletics assemblies. He is present when buses pull out at 5:00 a.m., and he is present on the sidelines of almost every athletics event, whether bantam, junior varsity, or varsity. My boys Marshall, Landon, Bolton, and Blake join me, the Porter-Gaud Athletics Department, and the entire school in thanking Ed for his service and wishing him all the best in his well-deserved retirement. While his leadership and guidance will be sorely missed at Porter-Gaud, his legacy at the school will remain long after he departs and we wish him and his wife Sally all the best as their next journey begins.

## RECOGNIZING THE VOLUNTEERS OF THE SHEPHERD CENTER OF OAKTON-VIENNA

### HON. GERALD E. CONNOLLY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. CONNOLLY. Mr. Speaker, I rise to recognize the volunteers of the Shepherd Center of Oakton-Vienna and to thank them for their many contributions to the Northern Virginia community. Organized in 1997, the Shepherd Center of Oakton-Vienna is a non-profit that provides services to help older adults continue living independently, and it offers programs that supply opportunities for enrichment, learning, and socialization.

The center works to support older residents who want to age in place in their homes and to engage them in social activities. Every year, approximately 200 volunteers for the Shepherd Center serve as medical drivers, companion drivers, friendly callers and visitors, health and wellness counselors, fundraisers, and grant writers. These volunteers run programs such as Lunch n' Life, Adventures in Learning, trips and outings, special events, and caregivers' support groups. Services are available free of charge to anyone age 50 or older who resides in the local community.

The Shepherd's Center has also been recognized as "One of the Best" 2012–13 by the Catalogue for Philanthropy: Greater Washington and the 2012 Nonprofit of the Year award from the Vienna-Tysons Regional Chamber of Commerce. The services and programs offered by this extraordinary organization help to ensure that our seniors stay connected to the community through promotion of active lifestyles, ongoing social integration, and availability of resources for older residents to use their experience, training, and skills in significant roles in society.

Mr. Speaker, I ask that my colleagues join me in recognizing the Shepherd Center of Oakton-Vienna for the services which enable older adults in our community to age in place and enjoy their golden years with dignity and independence. I thank the many volunteers who generously dedicate their time and efforts to the welfare of our neighbors. The value of their contributions cannot be overstated and are deserving of our highest praise.

## NATIONAL NURSES WEEK

### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of National Nurses Week which began on Tuesday, May 6 and ends on Friday, May 9. During the first full week of May each year, we recognize nurses across our country. Nurses represent the largest single component of the health care profession with approximately 3,100,000 registered nurses in the United States.

This year's theme for National Nurses Week is "Nurses Leading the Way." Nurses not only provide essential care to their patients, but they are also health innovators. Nurses are constantly bringing themselves up to speed on the new technologies and new medical research required to effectively serve their patients. We must support our nurse leaders by recognizing and thanking them for their daily work.

With a clear commitment to wellness promotion and illness prevention, the Obama Administration and Congress must support this large contingency of our health care community. There is convincing evidence that the health of our country can be dramatically advanced by deploying our greatest and most trusted national health resource, our nurses. Given a clear leadership role, the dedicated nurses of our country provide key services and preventive guidance for effective health care, not "sick-care."

National Nurses Week is dedicated to recognizing the work that our nation's nurses perform each day. We must also realize the potential that the nursing profession has to become the premier leader in preventive and public health. No matter the certification or registration, each nurse is important each day to each patient. Help me celebrate National Nurses Week by recognizing nurses in your community and nationwide.

## WASHINGTON COUNTY, MINNESOTA HISTORICAL SOCIETY'S 80TH ANNIVERSARY

### HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Ms. MCCOLLUM. Mr. Speaker, today I rise to pay tribute to the many dedicated volunteers of the Washington County Historical Society in my State of Minnesota as the organization celebrates its 80th anniversary. Since its inception in 1934, the Society has played an invaluable role in preserving the history of the county and educating today's citizens about past generations.

Eighty years ago, a local women's group identified the need to protect stories and artifacts from Washington County. Working together with the Stillwater Rotary Club, the group formed and held its inaugural meeting on April 11, 1934 where it elected its first president and received its first donation, a copy of the "History of Washington County and the St. Croix Valley." The Society still has the work in its collection today, in compliance with its policy of permanently keeping all donations.

After first operating out of a single room in the Stillwater Public Library, the Society has steadily grown in size by increasing the number and variety of items and locations in its collection. It purchased the former Stillwater Prison Warden's House from the State for $100 in 1941 and turned the property into a museum. The Warden's House museum is still in operation today, making it the second oldest house museum in Minnesota.

The Historical Society continues to grow to this day. It recently purchased a 14,000 square foot building in Stillwater, MN, that will be made into a state-of-the-art museum and research facility. The Society currently has about 700 members, operates two interpretive museums, and provides educational, research, and historical preservation opportunities throughout the county.

Mr. Speaker, the valuable efforts of the Washington County Historical Society during the past eight decades are commendable and worthy of recognition. In honor of many people who have built the success of the Washington County Historical Society, it is a privilege to submit this statement in honor of its 80th anniversary.

## CHIEF ROSEMARY CLOUD

### HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. LEWIS. Mr. Speaker, I rise today to honor a very special woman, Chief Rosemary

Cloud, of East Point, GA. She is the first African-American woman to lead a paid professional fire department in America.

I am proud to recognize my amazing constituent on the floor of the U.S. House of Representatives. A native of Atlanta, Chief Cloud began her career in the fire service 30 years ago at the Atlanta Fire Rescue Department as a firefighter. For the past 12 years, she has served as the Fire Chief of the East Point Fire Department. Over her years of service, Chief Cloud has managed 35 fire stations and over 1,000 employees.

Chief Cloud's service extends beyond Metro Atlanta. She was the Appointed Subject Matter Expert on Homeland Security Presidential Directive-8 for the White House National Security Council. She helped develop policies to help the United States prevent and respond to terrorist threats, major disasters, and other emergencies. Chief Cloud was also recently inducted into the International Women in Homeland Security and Emergency Management Hall of Fame.

Additionally, Chief Cloud is actively involved in her community. She currently mentors young people through leadership programs. She has also established more than 10 community service public safety programs in East Point.

Mr. Speaker, Chief Cloud's dedication to public service is inspirational and patriotic. I applaud her service and leadership, and I congratulate her on this historic appointment.

## INTRODUCTION OF THE AFGHAN ALLIES PROTECTION EXTENSION ACT OF 2014

### HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Mr. BLUMENAUER. Mr. Speaker, today, a bipartisan coalition of Members in the House and Senate have introduced the Afghan Allies Protection Extension Act of 2014 in an effort to protect the thousands of brave Afghan men and women, from translators to drivers, who risked their lives to protect our service members. The Special Immigrant Visa (SIV) program was created to help them come to America if their safety was threatened as a result of their work on behalf of the U.S. mission.

Too often, however, the Afghans who are supposed to be benefitting from the SIV program have been put through delays and a bureaucratic nightmare, and many have lost their lives. Today's legislation is intended to extend the program while fixing many of these problems that will enable the SIV program to function as intended.

More specifically, the Afghan Allies Protection Extension Act of 2014 authorizes an additional 3,000 SIVs for 2015; authorizes unused FY14 SIVs to be carried forward and issued by the Department of State in 2015; extends the Afghan SIV applicant deadline until Dec. 31, 2015; authorizes the Department of State to process all SIVs that meet the Dec. 31, 2015 application deadline until the authorized SIV cap is met or the processing deadline of Dec. 31, 2016 is reached, whichever comes first; provides parity in the definition of "family" between the more thoughtful Iraq definition and the narrow Afghan definition; and finally, allows a critically overlooked population of Afghans—those who worked for U.S. media outlets, NGOs and those who worked for the International Security Assistance Force (ISAF)—to become eligible for an SIV.

We have frankly fallen short of the mark. It is clear that these Afghan men and women are at risk and that the situation is likely to get worse rather than better. Should America be at war again someday, there is nothing more important than the ability to follow through on our word to aid those who risked their lives to protect our troops.

You don't have to be an American to be an American hero. It's time for Congress to step up and do the right thing for these brave Afghan men and women.

## NATIONAL DAY TO PREVENT TEEN PREGNANCY

### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 7, 2014*

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in support of the National Day to Prevent Teen Pregnancy which is May 7 this year. Across the country, hundreds of thousands of teens and hundreds of organizations will participate in activities and events today to focus on the avoidance of teen pregnancy.

Since the 1990s when groups began to bring attention to teen pregnancy rates in the United States, teen pregnancy has decreased by 44 percent. However, three in ten teenagers in the United States still become pregnant. There are clear disparities in teen pregnancy rates that are often the result of social issues like poverty, educational attainment, and involvement in the criminal justice or welfare systems.

Each year, teen childbearing costs our taxpayers at least $9 billion. Texas contributes approximately $1.1 billion to that price tag. A child born to unmarried teen parents is nine times more likely to grow up in poverty and subsequently incur the additional costs associated with public health care and participation in welfare programs. The average cost to taxpayers associated with a child born to a teen mother each year from their birth to age fifteen is $1,682. Between 1991 and 2010 in Texas, there were more than one million teen births.

We must commit to efforts to reduce the high rates of teen pregnancies and births in this country. Please join me in supporting the National Day to Prevent Teen Pregnancy by raising awareness, promoting parent-child communication, and supporting educational programs that have been proven to reduce teen pregnancy.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate of February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place and purpose of the meetings, when scheduled and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 8, 2014 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

MAY 13

9:30 a.m.
Committee on the Judiciary
To hold hearings to examine certain nominations.
SD–226

10 a.m.
Committee on Agriculture, Nutrition, and Forestry
To hold hearings to examine high frequency and automated trading in futures markets.
SR–328A

Committee on Energy and Natural Resources
To hold hearings to examine the nominations of Suzette M. Kimball, of West Virginia, to be Director of the United States Geological Survey, and Estevan R. Lopez, of New Mexico, to be Commissioner of Reclamation, both of the Department of the Interior, and Monica C. Regalbuto, of Illinois, to be Assistant Secretary of Energy for Environmental Management.
SD–366

Committee on Health, Education, Labor, and Pensions
To hold hearings to examine strengthening minority serving institutions, focusing on the best practices and innovations for student success.
SD–430

10:30 a.m.
Committee on the Budget
To hold hearings to examine expanding economic opportunity for women and families.
SD–608

Committee on Homeland Security and Governmental Affairs
To hold hearings to examine improving financial management at the Department of Defense.
SD–342

2:30 p.m.
Committee on the Judiciary
Subcommittee on Crime and Terrorism
To hold hearings to examine economic espionage and trade secret theft, focusing on if laws are adequate for today's threats.
SD–226

3 p.m.
Committee on Environment and Public Works
Subcommittee on Water and Wildlife
To hold hearings to examine polluted transportation infrastructure stormwater runoff.
SD–406

3:30 p.m.
Committee on Foreign Relations
To hold hearings to examine the nominations of Alice G. Wells, of Washington, to be Ambassador to the Hashemite Kingdom of Jordan, and Cassandra Q. Butts, of the District of Columbia, to

be Ambassador to the Commonwealth of The Bahamas, both of the Department of State.

SD–419

MAY 14

9:30 a.m.
Committee on Rules and Administration
To hold hearings to examine a collection, analysis and use of elections data, focusing on a measured approach to improving election administration.

SR–301

10 a.m.
Committee on Appropriations
Subcommittee on Department of Defense
To hold hearings to examine defense research and innovation.

SD–192

Committee on Health, Education, Labor, and Pensions
Business meeting to consider an original bill entitled, ''The Strong Start for America's Children Act'', and the nomination of R. Jane Chu, of Missouri, to be Chairperson of the National Endowment for the Arts.

SD–430

Committee on Homeland Security and Governmental Affairs
To hold hearings to examine charting a path forward for the Chemical Facilities Anti-Terrorism Standards Program.

SD–342

Committee on the Judiciary
To hold hearings to examine the Bulletproof Vest Partnership Grant Program, focusing on supporting law enforcement officers.

SD–226

2 p.m.
Committee on Appropriations
Subcommittee on Financial Services and General Government
To hold hearings to examine strengthening oversight and integrity of the financial markets, focusing on fiscal year 2015 resource needs of the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission.

SD–138

2:15 p.m.
Committee on Foreign Relations
To hold hearings to examine the nominations of Mark Sobel, of Virginia, to be United States Executive Director, and Sunil Sabharwal, of California, to be United States Alternate Executive Director, both of the International Monetary Fund, Matthew T. McGuire, of the District of Columbia, to be United States Executive Director of the International Bank for Reconstruction and Development, and Mileydi Guilarte, of the District of Columbia, to be United States Alternate Executive Director of the Inter-American Development Bank.

SD–419

2:30 p.m.
Committee on Commerce, Science, and Transportation
To hold hearings to examine promoting the well-being and academic success of college athletes.

SR–253

Committee on Homeland Security and Governmental Affairs
Subcommittee on Emergency Management, Intergovernmental Relations, and the District of Columbia
To hold hearings to examine the role of mitigation in reducing Federal expenditures for disaster response.

SD–342

Committee on Indian Affairs
To hold an oversight hearing to examine wildfires and forest management, focusing on how prevention is preservation.

SD–628

MAY 15

9:30 a.m.
Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine online advertising and hidden hazards to consumer security and date privacy.

SD–342

2:15 p.m.
Committee on Foreign Relations
To hold hearings to examine the nominations of Andrew H. Schapiro, of Illinois, to be Ambassador to the Czech Republic, and Nina Hachigian, of California, to be Representative of the United States of America to the Association of Southeast Asian Nations, with the rank and status of Ambassador, both of the Department of State.

SD–419

MAY 20

9:30 a.m.
Committee on Armed Services
Subcommittee on Airland
Business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2015.

SD–G50

10:15 a.m.
Committee on Energy and Natural Resources
To hold hearings to examine the nominations of Cheryl A. LaFleur, of Massachusetts, and Norman C. Bay, of New Mexico, both to be a Member of the Federal Energy Regulatory Commission.

SD–366

11 a.m.
Committee on Armed Services
Subcommittee on SeaPower
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2015.

SR–222

2 p.m.
Committee on Armed Services
Subcommittee on Strategic Forces
Closed business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2015.

SR–222

3:30 p.m.
Committee on Armed Services
Subcommittee on Readiness and Management Support
Business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2015.

SD–G50

5 p.m.
Committee on Armed Services
Subcommittee on Emerging Threats and Capabilities
Business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2015.

SD–G50

MAY 21

10 a.m.
Committee on Armed Services
Subcommittee on Personnel
Business meeting to markup those provisions which fall under the subcommittee's jurisdiction of the proposed National Defense Authorization Act for fiscal year 2015.

SD–G50

2:30 p.m.
Committee on Armed Services
Closed business meeting to markup the proposed National Defense Authorization Act for fiscal year 2015.

SR–222

Committee on Indian Affairs
To hold an oversight hearing to examine Indian education, focusing on the Bureau of Indian Education.

SD–628

MAY 22

9:30 a.m.
Committee on Armed Services
Closed business meeting to continue to markup the proposed National Defense Authorization Act for fiscal year 2015.

SR–222

MAY 23

9:30 a.m.
Committee on Armed Services
Closed business meeting to continue to markup the proposed National Defense Authorization Act for fiscal year 2015.

SR–222

# *Daily Digest*

# Senate

## *Chamber Action*

***Routine Proceedings, pages S2741–S2829***

**Measures Introduced:** Nine bills were introduced, as follows: S. 2296–2304. **Page S2796**

**Measures Passed:**

***Kilah Davenport Child Protection Act:*** Committee on the Judiciary was discharged from further consideration of H.R. 3627, to require the Attorney General to report on State law penalties for certain child abusers, and the bill was then passed. **Page S2823**

**Measures Considered:**

**Energy Savings and Industrial Competitiveness Act—Agreement:** Senate began consideration of S. 2262, to promote energy savings in residential buildings and industry, after agreeing to the motion to proceed, and taking action on the following amendments and motions proposed thereto: **Pages S2743–63, S2763, S2768**

**Pending:**

Reid (for Shaheen/Portman) Amendment No. 3012, in the nature of a substitute. **Page S2763**

Reid Amendment No. 3023 (to Amendment No. 3012), to change the enactment date. **Page S2763**

Reid Amendment No. 3024 (to Amendment No. 3023), of a perfecting nature. **Page S2763**

Reid Amendment No. 3025, to change the enactment date. **Page S2763**

Reid Amendment No. 3026 (to Amendment No. 3025), of a perfecting nature. **Page S2763**

Reid motion to commit the bill to the Committee on Energy and Natural Resources, with instructions, Reid Amendment No. 3027, to change the enactment date. **Page S2763**

Reid Amendment No. 3028 (to (the instructions of the motion to commit) Amendment No. 3027), of a perfecting nature. **Page S2763**

Reid Amendment No. 3029 (to Amendment No. 3028), of a perfecting nature. **Page S2763**

A motion was entered to close further debate on the bill, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, and pursuant to the unanimous-consent agreement of Wednesday, May 7, 2014, a vote on cloture will occur upon disposition of the nomination of Steven Croley, of Michigan, to be General Counsel of the Department of Energy. **Page S2763**

During consideration of this measure today, Senate also took the following action:

By 45 yeas to 52 nays (Vote No. 132), Senate failed to table Reid Amendment No. 3023 (to Amendment No. 3012), to change the enactment date. **Page S2768**

By 45 yeas to 51 nays (Vote No. 133), Senate failed to table Reid Amendment No. 3025, to change the enactment date. **Page S2768**

A unanimous-consent agreement was reached providing that on Monday, May 12, 2014, the vote on the motion to invoke cloture on the bill occur upon disposition of the nomination of Steven Croley, of Michigan, to be General Counsel of the Department of Energy; and that the filing deadline for first-degree amendments to the bill be 1 p.m., on Thursday, May 8, 2014. **Page S2824**

**Expiring Provisions Improvement, Reform, and Efficiency Act:** Senate began consideration of the motion to proceed to consideration of S. 2260, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions. **Pages S2763–68**

**Messages from the President:** Senate received the following messages from the President of the United States:

Transmitting, pursuant to law, the notification of the President's intent to withdraw the designation of Russia as a beneficiary developing country under the Generalized System of Preferences (GSP) program; which was referred to the Committee on Finance. (PM–40) **Page S2792**

Transmitting, pursuant to law, a report on the continuation of the national emergency that was originally declared in Executive Order 13338 of May 11, 2004, with respect to the blocking of property of certain persons and prohibition of exportation and re-exportation of certain goods to Syria; which was referred to the Committee on Banking, Housing, and Urban Affairs. (PM–41) **Page S2792**

**Removal of Injunction of Secrecy:** The injunction of secrecy was removed from the following treaty:

The Protocol Amending the Tax Convention with Spain (Treaty Doc. No. 113–4). The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Pages S2823–24**

**Talwani, Peterson, Rosenstengel, Hamamoto, Rosenbaum, Mitchell, and Croley Nominations—Agreement:** A unanimous-consent-time agreement was reached providing that, notwithstanding Rule XXII, at 11:15 a.m., on Thursday, May 8, 2014, Senate vote on the motion to invoke cloture on the nominations of Indira Talwani, of Massachusetts, to be United States District Judge for the District of Massachusetts, James D. Peterson, of Wisconsin, to be United States District Judge for the Western District of Wisconsin, and Nancy J. Rosenstengel, of Illinois, to be United States District Judge for the Southern District of Illinois, and vote on confirmation of the nomination of Pamela K. Hamamoto, of Hawaii, to be Representative to the Office of the United Nations and Other International Organizations in Geneva, with the rank of Ambassador; that if cloture is invoked on the nominations of Indira Talwani, of Massachusetts, to be United States District Judge for the District of Massachusetts, James D. Peterson, of Wisconsin, to be United States District Judge for the Western District of Wisconsin, and Nancy J. Rosenstengel, of Illinois, to be United States District Judge for the Southern District of Illinois, all post-cloture time be considered expired and at 1:45 p.m., Senate vote on confirmation of the nominations in the order listed; that following disposition of the nomination of Nancy J. Rosenstengel, of Illinois, to be United States District Judge for the Southern District of Illinois, Senate vote on the motion to invoke cloture on the nomination of Robin S. Rosenbaum, of Florida, to be United States Circuit Judge for the Eleventh Circuit, and vote on confirmation of the nomination of Theodore Reed Mitchell, of California, to be Under Secretary of Education, that if cloture is invoked on the nomination of Robin S. Rosenbaum, of Florida, to be United States Circuit Judge for the Eleventh Circuit, all post-cloture time be considered expired and at 5:30 p.m., on Monday, May 12, 2014, Senate vote on confirmation of the nomination of Robin S. Rosenbaum, of Florida, to be United States Circuit Judge for the Eleventh Circuit; that upon disposition of the nomination of Robin S. Rosenbaum, of Florida, to be United States Circuit Judge for the Eleventh Circuit, Senate vote on confirmation of the nomination of Steven Croley, of Michigan, to be General Counsel of the Department of Energy; that there be two minutes for debate prior to each vote, equally divided in the usual form, that any roll call votes, following the first in each series, be ten minutes in length; and that no further motions be in order to the nominations. **Page S2780**

**Nominations Received:** Senate received the following nominations: Routine lists in the Air Force, Army, and Navy. **Pages S2824–29**

**Messages from the House:** **Page S2793**

**Measures Referred:** **Page S2793**

**Measures Read the First Time:** **Pages S2793, S2823**

**Executive Communications:** **Pages S2793–96**

**Additional Cosponsors:** **Pages S2796–97**

**Statements on Introduced Bills/Resolutions:** **Pages S2797–99**

**Additional Statements:** **Pages S2788–92**

**Amendments Submitted:** **Pages S2799–S2823**

**Authorities for Committees to Meet:** **Page S2833**

**Privileges of the Floor:** **Page S2833**

**Record Votes:** Two record votes were taken today. (Total—133) **Page S2768**

**Adjournment:** Senate convened at 9:30 a.m. and adjourned at 7:40 p.m., until 9:30 a.m. on Thursday, May 8, 2014. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S2824.)

# *Committee Meetings*

*(Committees not listed did not meet)*

## FARM BILL

*Committee on Agriculture, Nutrition, and Forestry:* Committee concluded a hearing to examine the 2014 Farm Bill, focusing on implementation and next steps, after receiving testimony from Thomas Vilsack, Secretary of Agriculture.

## APPROPRIATIONS: DEPARTMENT OF HEALTH AND HUMAN SERVICES

*Committee on Appropriations:* Subcommittee on Departments of Labor, Health and Human Services, and Education, and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2015 for the Department of Health and Human Services, after receiving testimony from Thomas Frieden, Director, Centers for Disease Control and Prevention, Mary K. Wakefield, Administrator, Health Resources and Services Administration, Mark Greenberg, Acting Assistant Secretary, Administration for Children and Families, and Tim Love, Chief Operating Officer, Centers for Medicare and Medicaid Services, all of the Department of Health and Human Services.

## INVESTING IN CYBERSECURITY

*Committee on Appropriations:* Subcommittee on Department of Homeland Security concluded a hearing to examine investing in cybersecurity, focusing on understanding risks and building capabilities for the future, after receiving testimony from Phyllis Schneck, Deputy Under Secretary for Cybersecurity and Communications, National Protection and Programs Directorate, Peter Edge, Executive Associate Director, Homeland Security Investigations, Immigration and Customs Enforcement, and William Noonan, Deputy Special Agent in Charge, Criminal Investigative Division, Secret Service, all of the Department of Homeland Security; Jonathan Katz, University of Maryland Cybersecurity Center, College Park; Dave Mahon, CenturyLink, Denver, Colorado; Scott R. Bowers, Indiana Electric Cooperatives, Indianapolis; and Christopher Peters, Entergy Corporation, The Woodlands, Texas.

## APPROPRIATIONS: FEDERAL INFORMATION TECHNOLOGY INVESTMENTS

*Committee on Appropriations:* Subcommittee on Financial Services and General Government concluded a hearing to examine proposed budget estimates and oversight for fiscal year 2015 for Federal information technology investments, after receiving testimony from Steven VanRoekel, Federal Chief Information Officer, Administrator for E-Government and Information Technology, Office of Management and Budget; Daniel M. Tangherlini, Administrator, General Services Administration; Katherine Archuleta, Director, Office of Personnel Management; and David A. Powner, Director, Information Technology Management Issues, Government Accountability Office.

## DRIVERS OF JOB CREATION

*Committee on Banking, Housing, and Urban Affairs:* Subcommittee on Economic Policy concluded a hearing to examine drivers of job creation, including S. 1106, to improve the accuracy of mortgage underwriting used by Federal mortgage agencies by ensuring that energy costs are included in the underwriting process, to reduce the amount of energy consumed by homes, to facilitate the creation of energy efficiency retrofit and construction jobs, and S. 2189, to amend the Internal Revenue Code of 1986 to improve and extend the deduction for new and existing energy-efficient commercial buildings, after receiving testimony from Jennifer Erickson, Center for American Progress, Virginia Beach, Virginia; Derek Smith, Clean Energy Works, Portland, Oregon; Emil H. Frankel, Bipartisan Policy Center, Washington, DC.; Robert Dietz, National Association of Home Builders, Arlington, Virginia; and R. Thomas Buffenbarger, International Association of Machinists and Aerospace Workers, Brookeville, Maryland.

## SURFACE TRANSPORTATION REAUTHORIZATION

*Committee on Commerce, Science, and Transportation:* Committee concluded a hearing to examine Surface Transportation Reauthorization, focusing on progress, challenges, and next steps, after receiving testimony from Anthony R. Foxx, Secretary of Transportation.

## INDIAN AFFAIRS BILLS

*Committee on Indian Affairs:* Committee concluded a hearing to examine S. 1603, to reaffirm that certain land has been taken into trust for the benefit of the Match-E-Be-Nash-She-Wish Band of Pottawatami Indians, S. 1818, to ratify a water settlement agreement affecting the Pyramid Lake Paiute Tribe, S. 2040, to exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation, S. 2041, to repeal the Act of May 31, 1918, and S. 2188, to amend the Act of June 18, 1934, to reaffirm the authority of the Secretary of the Interior to take land into trust for Indian tribes, after receiving testimony from Senator Moran; Kevin Washburn, Assistant Secretary of the Interior for Indian Affairs; Brian Cladoosby, National Congress of American Indians, Washington, DC.; Nathan Small, Shoshone-Bannock Tribes Fort Hall Business Council, Ft. Hall, Idaho; Elwood Lowery, Pyramid Lake Paiute Tribe, Nixon, Nevada; and DK Sprague, Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians Gun Lake Tribe, Dorr, Michigan.

## THE FIGHT AGAINST CANCER

*Special Committee on Aging:* Committee concluded a hearing to examine the fight against cancer, focusing on challenges, progress, and promise, after receiving testimony from Harold Varmus, Director, National Cancer Institute, National Institutes of Health, Department of Health and Human Services; Thomas Sellers, H. Lee Moffitt Cancer Center and Research Institute, Tampa, Florida; Mary Dempsey, Patrick Dempsey Center for Cancer Hope and Healing, Lewiston, Maine; Valerie Harper, Greenwich, Connecticut; and Chip Kennett, Alexandria, Virginia.

# House of Representatives

## Chamber Action

**Public Bills and Resolutions Introduced:** 19 public bills, H.R. 4586–4604; and 1 resolution, H. Res. 574 were introduced. **Pages H3939–40**

**Additional Cosponsors:** **Pages H3940–41**

**Reports Filed:** Reports were filed today as follows:

H.R. 4058, to prevent and address sex trafficking of youth in foster care, with an amendment (H. Rept. 113–441);

H. Res. 567, providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi (H. Rept. 113–442);

H. Res. 575, providing for consideration of the resolution (H. Res. 567) providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi (H. Rept. 113–443); and

H. Res. 576, providing for consideration of the bill (H.R. 10) to amend the charter school program under the Elementary and Secondary Education Act of 1965; relating to consideration of the bill (H.R. 4438) to amend the Internal Revenue Code of 1986 to simplify and make permanent the research credit; and for other purposes (H. Rept. 113–444).

**Page H3939**

**Speaker:** Read a letter from the Speaker wherein he appointed Representative Jolly to act as Speaker pro tempore for today. **Page H3451**

**Recess:** The House recessed at 10:34 a.m. and reconvened at 12 noon. **Page H3455**

**Chaplain:** The prayer was offered by the guest chaplain, Reverend Don Williams, Maine State Police, Augusta, Maine. **Page H3455**

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

***Commission to Study the Potential Creation of a National Women's History Museum Act:*** H.R. 863, amended, to establish the Commission to Study the Potential Creation of a National Women's History Museum, by a ⅔ yea-and-nay vote of 383 yeas to 33 nays, Roll No. 201; **Pages H3471–77, H3481–82**

***Authorizing the use of Emancipation Hall in the Capitol Visitor Center for an event to celebrate the birthday of King Kamehameha I:*** H. Con. Res. 83, to authorize the use of Emancipation Hall in the Capitol Visitor Center for an event to celebrate the birthday of King Kamehameha I; and **Pages H3477–79**

***Urging the Government of Burma to end the persecution of the Rohingya people and respect internationally recognized human rights for all ethnic and religious minority groups within Burma:*** H. Res. 418, amended, to urge the Government of Burma to end the persecution of the Rohingya people and respect internationally recognized human rights for all ethnic and religious minority groups within Burma. **Pages H3929–32**

**American Research and Competitiveness Act of 2014—Rule for Consideration:** The House agreed to H. Res. 569, the rule that is providing for consideration of the bill (H.R. 4438) to amend the Internal Revenue Code of 1986 to simplify and make permanent the research credit, by a recorded vote of 230 ayes to 188 noes, Roll No. 200, after the previous question was ordered by a yea-and-nay vote of 225 yeas to 191 nays, Roll No. 199.

**Pages H3465–71, H3480–81**

A point of order was raised against the consideration of H. Res. 569 and it was agreed to proceed with consideration of the resolution by voice vote.

**Pages H3465–71**

**Recommending that the House of Representatives find Lois G. Lerner, former Director, Exempt Organizations, Internal Revenue Service, in contempt of Congress for refusal to comply with a subpoena duly issued by the Committee on Oversight and Government Reform:** The House agreed to H. Res. 574, recommending that the House of Representatives find Lois G. Lerner, former Director, Exempt Organizations, Internal Revenue Service, in contempt of Congress for refusal to comply with a subpoena duly issued by the Committee on Oversight and Government Reform, by a yea-and-nay vote of 231 yeas to 187 nays, Roll No. 203.

**Pages H3482–H3909, H3919–22**

Rejected the Cummings motion to refer the resolution to the Committee on Oversight and Government Reform with instructions by a yea-and-nay vote of 191 yeas to 224 nays, Roll No. 202.

**Pages H3919–22**

H. Res. 568, the rule providing for consideration of H. Rept. 113–415 and an accompanying resolution (H. Res. 574) and providing for consideration of H. Res. 565, was agreed to by a recorded vote of 224 ayes to 187 noes, Roll No. 198, after the previous question was ordered by a yea-and-nay vote of 223 yeas to 192 nays, Roll No. 197.

**Pages H3458, H3479–80**

**Calling on Attorney General Eric H. Holder, Jr., to appoint a special counsel to investigate the**

**targeting of conservative nonprofit groups by the Internal Revenue Service:** The House agreed to H. Res. 565, to call on Attorney General Eric H. Holder, Jr., to appoint a special counsel to investigate the targeting of conservative nonprofit groups by the Internal Revenue Service, by a yea-and-nay vote of 250 yeas to 168 nays, Roll No. 204.

**Pages H3909–19, H3922–23**

H. Res. 568, the rule providing for consideration of H. Rept. 113–415 and an accompanying resolution (H. Res. 574) and providing for consideration of H. Res. 565, was agreed to by a recorded vote of 224 ayes to 187 noes, Roll No. 198, after the previous question was ordered by a yea-and-nay vote of 223 yeas to 192 nays, Roll No. 197. **Pages H3458–65**

**Suspension—Proceedings Postponed:** The House debated the following measure under suspension of the rules. Further proceedings were postponed:

***Electrify Africa Act of 2014:*** H.R. 2548, amended, to establish a comprehensive United States government policy to assist countries in sub-Saharan Africa to develop an appropriate mix of power solutions for more broadly distributed electricity access in order to support poverty alleviation and drive economic growth. **Pages H3923–29**

**Recess:** The House recessed at 8:04 p.m. and reconvened at 9:55 p.m. **Page H3932**

**Presidential Messages:** Read a message from the President wherein he provided notice of his intent to withdraw the designation of Russia as a beneficiary developing country under the Generalized System of Preferences (GSP) program—referred to the Committee on Ways and Means and ordered to be printed (H. Doc. 113–107). **Page H3482**

Read a message from the President wherein he notified Congress that the national emergency declared with respect to the actions of the Government of Syria is to continue in effect beyond May 11, 2014—referred to the Committee on Foreign Affairs and ordered to be printed (H. Doc. 113–108).

**Page H3923**

**Senate Message:** Message received from the Senate today appears on page H3455.

**Quorum Calls—Votes:** Six yea-and-nay votes and two recorded votes developed during the proceedings of today and appear on pages H3479, H3480, H3480–81, H3481, H3481–82, H3921–22, H3922, H3922–23. There were no quorum calls.

**Adjournment:** The House met at 10 a.m. and adjourned at 9:56 p.m.

# *Committee Meetings*

## MISCELLANEOUS MEASURE

*Committee on Appropriations:* Subcommittee on Transportation, Housing and Urban Development and Related Agencies held a markup on Transportation, Housing and Urban Development and Related Agencies Appropriations Bill FY 2015. The bill was ordered reported to the Full Committee, without amendment.

## UNITED STATES ASSISTANCE TO COMBAT TRANSNATIONAL CRIME

*Committee on Appropriations:* Subcommittee on State, Foreign Operations, and Related Programs held a hearing on United States Assistance to Combat Transnational Crime Budget. Testimony was heard from William Brownfield, Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs, Department of State; and Luis CdeBaca, Office to Monitor and Combat Trafficking in Persons, Department of State.

## MISCELLANEOUS MEASURE

*Committee on Armed Services:* Full Committee began a markup on H.R. 4435, the ''National Defense Authorization Act for Fiscal Year 2015''.

## NRC FY 2015 BUDGET AND POLICY ISSUES

*Committee on Energy and Commerce:* Subcommittee on Energy and Power held a hearing entitled ''The NRC FY 2015 Budget and Policy Issues''. Testimony was heard from the following NRC officials: George Apostolakis, Commissioner; Allison Macfarlane, Chairman, William Magwood, Commissioner; William Ostendorff, Commissioner; and Kristine Svinicki, Commissioner.

## PPACA ENROLLMENT AND THE INSURANCE INDUSTRY

*Committee on Energy and Commerce:* Subcommittee on Oversight and Investigations held a hearing entitled ''PPACA Enrollment and the Insurance Industry''. Testimony was heard from public witnesses.

## MISCELLANEOUS MEASURES

*Committee on Energy and Commerce:* Full Committee began a markup on the following legislation: H.R. 3301, the ''North American Energy Infrastructure Act''; H.R. 4342, the ''Domain Openness Through Continued Oversight Matters Act of 2014''; and a bill to amend the Communications Act of 1934 to extend expiring provisions relating to the retransmission of signals of television broadcast stations, and for other purposes.

## MISCELLANEOUS MEASURES

*Committee on Financial Services:* Full Committee held a markup on the following legislation: H.R. 4200, the "SBIC Advisers Relief Act"; H.R. 4554, the "Restricted Securities Relief Act"; H.R. 2629, the "Fostering Innovation Act"; H.R. 1779, the "Preserving Access to Manufactured Housing Act of 2013"; H.R. 2673, the "Portfolio Lending and Mortgage Access Act"; H.R. 3211, the "Mortgage Choice Act of 2013"; H.R. 4466, the "Financial Regulatory Clarity Act of 2014"; H.R. 4521, the "Community Institution Mortgage Relief Act of 2014"; H.R. 4568, the "Small Business Freedom and Growth Act"; a resolution to authorize the issuance of subpoenas to the Department of Justice and the Department of the Treasury for certain documents; legislation regarding the Securities and Exchange Commission to revise its rules so as to increase the threshold amount for requiring issuers to provide certain disclosures relating to compensatory benefit plans; legislation regarding the Disclosure Modernization and Simplification Act; legislation regarding the Private Placement Improvement Act; and legislation regarding the Securities and Exchange Commission to revise the definition of a well-known seasoned issuer to reduce the worldwide market value threshold under the definition. The bill, H.R. 3211, was ordered reported without amendment. All other bills that the committee considered today are pending roll call votes, which will be taken on date yet to be determined.

## ASSESSING THE BIOLOGICAL WEAPONS THREAT: RUSSIA AND BEYOND

*Committee on Foreign Affairs:* Subcommittee on Europe, Eurasia and Emerging Threats held a hearing entitled "Assessing the Biological Weapons Threat: Russia and Beyond". Testimony was heard from public witnesses.

## PREVENTING WASTE, FRAUD, ABUSE AND MISMANAGEMENT IN HOMELAND SECURITY

*Committee on Homeland Security:* Full Committee held a hearing entitled "Preventing Waste, Fraud, Abuse and Mismanagement in Homeland Security—A GAO High-Risk List Review". Testimony was heard from Alejandro Mayorkas, Deputy Secretary, Department of Homeland Security; Gene L. Dodaro, Comptroller General of the United States, Government Accountability Office; and John Roth, Inspector General, Department of Homeland Security.

## MISCELLANEOUS MEASURE

*Committee on the Judiciary:* Full Committee held a markup on H.R. 3361, the "USA FREEDOM Act". The bill was ordered reported as amended.

## PROPER MANAGEMENT OF ELECTRICITY RIGHTS OF WAY ON FEDERAL LANDS

*Committee on Natural Resources:* Full Committee held a hearing entitled "Keeping the Lights On and Reducing Catastrophic Forest Fire Risk: Proper Management of Electricity Rights of Way on Federal Lands". Testimony was heard from Jim Peña, Associate Deputy Chief, National Forest System, Forest Service; Ed Roberson, Assistant Director for Renewable Resources and Planning, Bureau of Land Management; and public witnesses.

## LEGISLATIVE MEASURES

*Committee on Natural Resources:* Subcommittee on Indian and Alaska Native Affairs held a hearing on H.R. 409, the "Indian Trust Asset Reform Act"; and H.R. 4350, the "Northern Cheyenne Lands Act". Testimony was heard from Representative Simpson; Michael Black, Director, Bureau of Indian Affairs, Department of Interior; and public witnesses.

## EPA LEADERSHIP

*Committee on Oversight and Government Reform:* Full Committee held a hearing entitled "Is EPA Leadership Obstructing Its Own Inspector General?". Testimony was heard from the following Environmental Protection Agency officials: Bob Perciasepe, Deputy Administrator; Patrick Sullivan, Assistant Inspector General, Investigations, Office of the Inspector General; Allan Williams, Deputy Assistant Inspector General, Investigations, Office of the Inspector General; and Elisabeth Heller Drake, Special Agent, Office of Investigations, Office of Inspector General.

## SUCCESS AND OPPORTUNITY THROUGH QUALITY CHARTER SCHOOLS ACT; AND PROVIDING FOR THE ESTABLISHMENT OF THE SELECT COMMITTEE ON THE EVENTS SURROUNDING THE 2012 TERRORIST ATTACK IN BENGHAZI

*Committee on Rules:* Full Committee held a hearing on H.R. 10, the "Success and Opportunity through Quality Charter Schools Act"; and H. Res. 567, Providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi. The Committee granted, by record vote of 6–2, a structured rule for H.R. 10. The rule provides 90 minutes of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce. The rule waives all points of order against consideration of the bill. The rule makes in order as original text for the purpose of amendment the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill

and provides that it shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute. The rule makes in order only those further amendments printed in the Rules Committee report. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The rule waives all points of order against the amendments printed in the report. The rule provides one motion to recommit with or without instructions.

In section 2, the rule provides that on any legislative day during the period from May 12, 2014, through May 16, 2014: the Journal of the proceedings of the previous day shall be considered as approved; and the Chair may at any time declare the House adjourned to meet at a date and time to be announced by the Chair in declaring the adjournment.

In section 3, the rule provides that the Speaker may appoint Members to perform the duties of the Chair for the duration of the period addressed by section 2.

In section 4, the rule provides that it shall be in order at any time on the legislative day of May 8, 2014, for the Speaker to entertain motions that the House suspend the rules relating to H.R. 4366, the Strengthening Education through Research Act.

In section 5, the rule provides that the Committee on Appropriations may, at any time before 5 p.m. on Thursday, May 15, 2014, file privileged reports to accompany measures making appropriations for the fiscal year ending September 30, 2015.

In section 6, the rule provides that during consideration of the bill (H.R. 4438) to amend the Internal Revenue Code of 1986 to simplify and make permanent the research credit, pursuant to House Resolution 569, the further amendment printed in part B of the report shall be considered as adopted.

In section 7 of the rule provides that House Resolution 569 is amended by striking ''90 minutes'' and inserting ''one hour''.

H. Res. 567—Providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi. [ORIGINAL JURISDICTION MARKUP] The Committee favorably reported the resolution to the House by record vote of 7–4 without amendment.

H. Res. 567—Providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi. [ORIGINAL JURISDICTION HEARING]

The Committee granted, by record vote of 7–4, a closed rule for H. Res. 567. The rule provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Rules. The rule waives all points of order against consideration of the resolution. The rule provides that the resolution shall be considered as read and shall not be subject to a demand for division of the question.

Testimony on H.R. 10 was heard from Representatives Rokita, George Miller (CA), and Cassidy.

### PRIVATE SECTOR INITIATIVES TO HELP VETERANS PURSUE BUSINESS OPPORTUNITIES

*Committee on Small Business:* Full Committee held a hearing entitled ''Military to Entrepreneurship: Private Sector Initiatives to Help Veterans Pursue Business Opportunities''. Testimony was heard from public witnesses.

### THE 2014 TAX RETURN FILING SEASON

*Committee on Ways and Means:* Subcommittee on Oversight held a hearing on the Internal Revenue Service (IRS) and the 2014 tax return filing season. Testimony was heard from John Koskinen, Commissioner, Internal Revenue Service.

## *Joint Meetings*

### ECONOMIC OUTLOOK

*Joint Economic Committee:* Committee concluded a hearing to examine the economic outlook, after receiving testimony from Janet L. Yellen, Chair, Board of Governors of the Federal Reserve System.

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## COMMITTEE MEETINGS FOR THURSDAY, MAY 8, 2014

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on the Budget:* to hold hearings to examine the United States economic and fiscal outlook, 9:30 a.m., SD–608.

*Committee on Commerce, Science, and Transportation:* Subcommittee on Tourism, Competitiveness, and Innovation, to hold hearings to examine the state of United States travel and tourism, focusing on industry efforts to attract 100 million visitors annually, 10 a.m., SR–253.

*Committee on Finance:* to hold hearings to examine the nominations of Stefan M. Selig, of New York, to be Under Secretary of Commerce for International Trade, Darci L. Vetter, of Nebraska, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador, and Henry J. Aaron,

of the District of Columbia, Lanhee J. Chen, of California, and Alan L. Cohen, of Virginia, all to be a Member of the Social Security Advisory Board, 10 a.m., SD–215.

*Committee on Foreign Relations:* to hold hearings to examine assessing Venezuela's political crisis, focusing on human rights violations and beyond, 10 a.m., SD–419.

*Committee on Health, Education, Labor, and Pensions:* to hold hearings to examine the nomination of Sylvia Mathews Burwell, of West Virginia, to be Secretary of Health and Human Services, 9:30 a.m., SD–106.

*Committee on Homeland Security and Governmental Affairs:* to hold hearings to examine identifying critical factors for success in information technology acquisitions, 10 a.m., SD–342.

Subcommittee on Financial and Contracting Oversight, to hold hearings to examine waste and abuse in Army sponsorship and marketing contracts, 3 p.m., SD–342.

*Committee on the Judiciary:* business meeting to consider S. 1720, to promote transparency in patent ownership and make other improvements to the patent system, and the nominations of Carlos Eduardo Mendoza, and Paul G. Byron, both to be a United States District Judge for the Middle District of Florida, Darrin P. Gayles, and Beth Bloom, both to be a United States District Judge for the Southern District of Florida, 11:15 a.m., S–216, Capitol.

*Select Committee on Intelligence:* to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

## House

*Committee on Appropriations,* Full Committee, markup on Commerce, Justice, and Science Appropriations Bill, FY 2015; and Report on the Suballocation of Budget Allocations for FY 2015, 10 a.m., 2359 Rayburn.

*Committee on Education and the Workforce,* Full Committee, hearing entitled ''Big Labor on College Campuses: Examining the Consequences of Unionizing Student Athletes'', 10 a.m., 2175 Rayburn.

*Committee on Energy and Commerce,* Full Committee, markup on the following legislation: H.R. 3301, the ''North American Energy Infrastructure Act''; H.R. 4342, the ''Domain Openness Through Continued Oversight Matters Act of 2014''; and a bill to amend the Communications Act of 1934 to extend expiring provisions relating to the retransmission of signals of television broadcast stations, and for other purposes, 10 a.m., 2123 Rayburn.

*Committee on Financial Services,* Full Committee, hearing entitled ''The Annual Testimony of the Secretary of the Treasury on the State of the International Financial System'', 10 a.m., 2128 Rayburn.

*Committee on Foreign Affairs,* Full Committee, hearing entitled ''Russia's Destabilization of Ukraine'', 10 a.m., 2172 Rayburn.

Subcommittee on Middle East and North Africa, hearing entitled ''The Palestinian Authority, Israel and the Peace Process: What's Next?'', 1:45 p.m., 2172 Rayburn.

*Committee on Homeland Security,* Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies, hearing entitled ''Electromagnetic Pulse (EMP): Threat to Critical Infrastructure'', 2 p.m., 311 Cannon.

*Committee on the Judiciary,* Subcommittee on Regulatory Reform, Commercial and Antitrust Law, hearing entitled ''Oversight Hearing on ''Competition in the Video and Broadband Markets: the Proposed Merger of Comcast and Time Warner Cable'', 9:30 a.m., 2141 Rayburn.

Subcommittee on Courts, Intellectual Property and the Internet, hearing entitled ''Compulsory Video Licenses of Title 17'', 2 p.m., 2141 Rayburn.

*Committee on Natural Resources,* Full Committee, markup on the following legislation: H.R. 3687, the ''Military Land and National Defense Act''; H.R. 4402, the ''Guam Military Training and Readiness Act of 2014''; H.R. 4458, the ''Naval Air Weapons Station China Lake Security Enhancement Act'', 10 a.m., 1324 Longworth.

*Committee on Veterans' Affairs,* Full Committee, business meeting on the ''Update on Department of Veterans' Affairs in Phoenix VA'', 9 a.m., 334 Cannon.

Subcommittee on Economic Opportunity, hearing entitled ''Defining and Improving Success for Student Veterans'', 10 a.m., 334 Cannon.

*House Permanent Select Committee on Intelligence,* Full Committee, markup on H.R. 4291, the ''FISA Transparency and Modernization Act''; H.R. 3361, the ''USA Freedom Act''; and member access request, 10 a.m., 304–HVC. A portion of this markup may close.

*Next Meeting of the* **SENATE**

**9:30 a.m., Thursday, May 8**

**Senate Chamber**

**Program for Thursday:** At 11:15 a.m., Senate will vote on the motion to invoke cloture on the nominations of Indira Talwani, of Massachusetts, to be United States District Judge for the District of Massachusetts, James D. Peterson, of Wisconsin, to be United States District Judge for the Western District of Wisconsin, and Nancy J. Rosenstengel, of Illinois, to be United States District Judge for the Southern District of Illinois, and on confirmation of the nomination of Pamela K. Hamamoto, of Hawaii, to be Representative to the Office of the United Nations and Other International Organizations in Geneva, with the rank of Ambassador.

If cloture is invoked on the nominations, at 1:45 p.m., Senate will vote on confirmation of the nominations of Indira Talwani, of Massachusetts, to be United States District Judge for the District of Massachusetts, James D. Peterson, of Wisconsin, to be United States District Judge for the Western District of Wisconsin, and Nancy J. Rosenstengel, of Illinois, to be United States District Judge for the Southern District of Illinois, on the motion to invoke cloture on the nomination of Robin S. Rosenbaum, of Florida, to be United States Circuit Judge for the Eleventh Circuit, and on confirmation of the nomination of Theodore Reed Mitchell, of California, to be Under Secretary of Education.

*Next Meeting of the* **HOUSE OF REPRESENTATIVES**

**10 a.m., Thursday, May 8**

**House Chamber**

**Program for Thursday:** Consideration of H. Res. 567—Providing for the Establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi (Subject to a Rule). Begin consideration of H.R. 10—Success and Opportunity through Quality Charter Schools Act (Subject to a Rule). Consideration of H.R. 4366—Strengthening Education through Research Act, as amended, under suspension of the rules.

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